

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION.

CHAPTER 1

INTOXICATING LIQUORS

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8-101. Subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or

¹State law reference

Tennessee Code Annotated, title 57.

possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, as amended, or as hereafter amended and by rules and regulations promulgated thereunder all of which are incorporated by reference as if verbatim and as provided in this chapter. (1984 Code, § 2-101, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-102. Terms defined. (Pursuant to Tennessee Code Annotated, § 57-3-101) Whenever used herein unless the context requires otherwise:

(1) (a) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as defined in § 57-5-101(b). Notwithstanding any provision to the contrary in this title, except for beer as defined in § 57-5-101(b), "alcoholic beverage" or "beverage" also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under § 57-5-101(b) shall also be alcoholic beverages. Notwithstanding this subdivision (a)(1)(A), products or beverages containing less than one half of one percent (1/2 of 1%) alcohol by volume, other than wine as defined in this section, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to chapters of this title.

(b) Notwithstanding this definition, ethanol produced in a facility whose production process is primarily a wet milling process in bulk and sold and transported in bulk lots of five thousand (5,000) gallons or more and not packaged for retail sale by the holder of a valid alcohol fuels permit or a valid distilled spirits permit:

(i) For export to another country;

(ii) To a domestic manufacturer, distiller, vintner, or rectifier who is a duly licensed alcohol beverage or liquor manufacturer in this or some other state; or

(iii) To a manufacturer who uses the ethanol to create a product which is incapable of human consumption or contains less than one half of one percent (1/2 of 1%) alcohol by volume; shall not be considered to be an alcoholic beverage and shall not be subject to regulation or taxation pursuant to chapters 1-6 and 9 of this title;

(2) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either personally or by an agent;

(3) "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale;

- (4) "Federal license" does not mean tax receipt or permit;
- (5) "Gallon" or "gallons" means a wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces;
- (6) "Gift" means and includes the unauthorized distribution of alcoholic beverages by a licensee for which no payment is expected or received; provided, however, that it does not include any such transaction between a licensee and its employee or employees in the normal course of employment or depletions from a licensee's inventory related to routine business or marketing purposes where all applicable taxes have been paid;
- (7) "High alcohol content beer" means an alcoholic beverage which is beer, ale or other malt beverage having an alcoholic content of more than eight percent (8%) by weight and not more than twenty percent (20%) by weight, except wine as defined in § 57-3-101, that is brewed, regulated, distributed or sold pursuant to chapter 3 of this title; provided, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol;
- (8) "Importer" means any person or entity holding a non-manufacturer nonresident seller's permit pursuant to § 57-3-602(c) or any entity causing alcoholic beverages to be delivered or shipped into this state holding an importer's basic permit from the alcohol and tobacco tax and trade bureau of the United States Department of the Treasury;
- (9) "License" means the license issued pursuant to this chapter;
- (10) "Licensee" means .any person to whom such license has been issued pursuant to this chapter;
- (11) "Manufacture" means and includes brewing high alcohol content beer, distilling, rectifying and operating a winery;
- (12) "Manufacturer" means and includes a brewer of high alcohol content beer, distiller, vintner and rectifier;
- (13) "Municipality" means an incorporated town or city having a population of nine hundred twenty-five (925) persons or over by the federal census of 1950 or any subsequent federal census; provided, however, that when any incorporated town or city by ordinance authorizes a census to be taken of such incorporated town or city and shall furnish to the commission a certified copy of the census containing the name, address, age and sex of each person enumerated therein, and if the census shall show that the incorporated town or city has a population of nine hundred twenty-five (925) persons or over, the commission, upon verification of the census, may declare such incorporated town or city to be a "municipality" for all intents and purposes of this chapter;
- (14) "Pint" means one eighth (1/8) of a wine gallon;
- (15) "Quart" means one fourth (1/4) of a wine gallon;
- (16) "Rectifier" means and includes any person who rectifies, purifies or refines distilled spirits or wines by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying or

refining distilled spirits, shall, by mixing such spirits, wine or other liquor with any material, manufacture any imitation of, or compounds liquors for sale under the name of, whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name;

(17) "Retail food store wine license" means a license for the sale of wine at retail in a retail food store.

(18) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under this chapter;

(19) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale; provided, however, that it does not include any transaction between a licensee and its employee or employees in the normal course of employment for which no payment is expected or received or depletions from a licensee's inventory related to routine business or marketing purposes where all applicable taxes have been paid;

(20) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, either personally or by an agent;

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

(22) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale, except that sales by a person licensed under § 57-3-204 to a charitable, nonprofit, or political organization possessing a valid special occasion license for resale by such organizations pursuant to their special occasion license shall not be construed as such a sale;

(23) "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 climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine; and

(24) "Winery" means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded, and also includes a winery for the manufacture of wine.

Words importing the masculine gender include the feminine and the neuter, and the singular includes the plural. (1984 Code, § 2-102, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-103. License required for retail business. For the retail sale of alcoholic beverages a license may be issued as herein provided. Any person, firm or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the city manager for a retailer's license. The application shall be

in writing on forms prescribed and furnished by the city manager. Subject to the issuance of a retail license by the Alcoholic Beverage Commission of the State of Tennessee, a majority of the Board of Commissioners of the City of Mount Pleasant may issue such retailer's license. Such retailer's license shall not be issued unless and until the applicant therefor shall pay to the city recorder a license fee of two hundred and fifty dollars (\$250.00); and no license shall be issued except to individuals who are residents of the State of Tennessee and either have been bona fide residents of the state for at least two (2) years next preceding or who have at any time been residents of the State of Tennessee for at least ten (10) consecutive years or have been licensed pursuant to § 57-3-204 for a period of seven (7) consecutive years. (1984 Code, § 2-103, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-104. Certificate of moral character/compliance. Every applicant for a retail business license to sell alcoholic beverages in sealed packages for off premise consumption pursuant to and in compliance of Tennessee Code Annotated, § 57-3-204 or for a renewal of said license pursuant to Tennessee Code Annotated, § 57-3-213 shall make an application to the Board of Commissioners of the City of Mount Pleasant, on forms provided by the city, for a certificate of moral character/compliance.

Every application for a certificate of moral character/compliance shall be referred to the city manager for investigation and to the city building inspector for verification of compliance with all zoning and building ordinances and/or regulations, 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.

A majority of the board of commissioners of the City of Mount Pleasant may issue a certificate of moral character/compliance pursuant to Tennessee Code Annotated, § 57-3-208(b) to an applicant or applicants if the investigation shows:

(1) That the applicant or applicants who are to be in actual charge of said business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application; and further, that in the official's opinion the applicant will not violate any of the provisions of this chapter.

(2) That the applicant or applicants have secured a location for said business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the city or county, and that the applicant or applicants meet all residency requirements, if any, established by such local authority; and

(3) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

(4) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate, shall be a violation of this chapter. The town may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business, or if the interest of the applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by the applicant touching any matter relating to the operation of the business. All data, written statements, affidavits, evidence or other documents submitted in support of an application are a part of the application.

(5) If the provisions of this section are alleged to have been violated, the board of commissioners may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant or certificate-holder to refute such allegations and to show cause why the certificate should not be revoked.

(6) 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.

(7) Provided, however, that no certificate of moral character/compliance shall be issued to any applicant or applicants who are not and have not been for at least two (2) years resident citizens of the County of Maury or who were licensed pursuant to § 57-3-204.

(8) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate. (1984 Code, § 2-104, as amended by Ord. #88-695, Aug. 1988, and replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-105. Limitation on number of retailers. There shall be no limit on the number of retailers as long as they are in compliance with federal, state, and municipal law. (1984 Code, § 2-105, as amended by Ord. #88-695, Aug. 1988, and replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-106. Location restrictions on retailers. No certificate of compliance shall be granted the operator of a retail store for the sale of alcoholic beverages except on premises; provided, however, no retail store shall be permissible where the proposed location thereof is within five hundred fifty feet (500') of a church or a school. A retailer's license 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 city manager unless the new location is approved in writing by the city manager. (1984 Code, § 2-106, as amended by Ord. #88-695, Aug. 1988, and replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-107. Inspection fee. The City of Mount Pleasant hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (1984 Code, § 2-107, and replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-108. Bonds of retailers. 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 bonds shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (1984 Code, § 2-108, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-109. Miscellaneous restrictions on license holders and their 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 this chapter. 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; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(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 manager and approved by him. 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 twenty-one (21) years, and it shall be unlawful for any retailer to employ any person under twenty-one (21) 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.

(9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be 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 the application for a license or certificate shall be a violation of this chapter. The city may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance

concerning the operation of the business, or if the interest of the applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by the applicant touching any matter relating to the operation of the business. All data, written statements, affidavits, evidence or other documents submitted in support of an application are a part of the application.

(12) No retail licensee shall hold more than fifty percent (50%) of the licenses in Mount Pleasant.

(13) For five (5) years beginning January 1, 2014, no retail license shall be issued to any applicant for a new location that is within one thousand five hundred feet (1,500') of an existing operating establishment holding a license issued pursuant to Tennessee Code Annotated, § 57-3-204 as of July 1, 2014, (an "existing licensed premises") if the applicant for such new retail license already holds one (1) or more retail licenses issued under Tennessee Code Annotated, § 57-3-204, unless the commission receives the written consent from each retail licensee owning an existing licensed premises within one thousand five hundred feet (1,500') of such new location. Notwithstanding any law to the contrary, the holder of one (1) or more retail licenses issued under Tennessee Code Annotated, § 57-3-204 may purchase the business or assets of an existing licensed premises and obtain a retail license to operate such existing licensed premises, as the same may be expanded or modified, from time to time. Nothing in this subdivision shall be deemed to prohibit a retailer licensed under Tennessee Code Annotated, § 57-3-204 from obtaining a new or replacement license in connection with the relocation of an existing licensed premises, as long as the new location is within the jurisdiction of the municipality or county issuing the certificate required under Tennessee Code Annotated, § 57-3-208 for such existing licensed premises.

(14) Nothing in this chapter shall prohibit a retailer from offering a discount in such manner as the retailer deems appropriate as long as the discount being offered is not below the cost paid by the retailer to purchase the alcoholic beverages from the wholesaler.

(15) If the provisions of this section are alleged to have been violated, the board of commissioners may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant or certificate-holder to refute such allegations and to show cause why the certificate should not be revoked.

(16) 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. #2016-996, Jan. 2017 and replaced by Ord. #2017-1011, Nov. 2017)

8-110. License to be displayed. Persons granted a license to carry on the business or undertaking contemplated herein 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, and shall promptly procure and keep at the place of business a copy of the rules and regulations promulgated by the alcoholic beverage commission. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-111. Transfer of licenses prohibited; term of licenses; use of agents. 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 United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-112. Expiration and renewal of licenses. Licenses issued under this chapter shall expire at twelve (12) months after issuance and, subject to the provisions of this chapter, maybe renewed each year by payment of the above mentioned license fee. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-113. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-114. 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. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-115. Regulations for 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 municipal 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 except as provided for in chapter 3 of this title.

(6) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and curbside 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 pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(9) No advertising is allowed by a licensee, person, firm, corporation, partnership, or any other entity by billboards, displays, posters, or designs intended to advertise any alcoholic beverage within the corporate limits of the City of Mount Pleasant, outside the building of a licensee, except that a sign, subject to the approval of the city manager, may be erected upon the property occupied by the licensee. No sign shall exceed the size of six by three feet (6' x 3'), and no flashing lights shall be allowed.

(10) No alcoholic beverages shall be sold for consumption on the premises of a package store. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-116. Retailers must follow state law as to deliveries. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-117. Regulation of retailers. (1) No retailer for off premises consumption shall sell, lend, or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend, or give away such beverages to any person accompanied by a person who is drunk.

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

(3) No retailer for off premises consumption shall sell, lend, or give away any alcoholic beverages between eleven o'clock P.M (11:00 A.M.) on Saturday and eight o'clock A.M. (8:00 A.M.) on Monday of each week, and between eleven o'clock P.M. (11:00 P.M.) and eight o'clock A.M. (8:00 A.M.) Monday through Saturday.

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

(5) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverage in any unsealed bottles or other unsealed containers. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-118. Failure to pay license or inspection fee, etc. Whenever any person licensed here under fails to account for or pay over to the city recorder any license or inspection fee, or defaults in any of the conditions of his bond, the city manager 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. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-119. City manager may examine books, papers, etc., of dealers. The city manager is authorized to examine the books, papers, and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-120. Violations. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause for this municipal code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with a petition that all licenses be revoked, pursuant to the provisions of said commission. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-121. Revocation procedures. Whenever the board of commissioners find that a licensee has been, or is, in violation of the provisions of Tennessee Code Annotated, title 57, chapter 1, or the provisions of this chapter, they shall certify such violation to the state alcoholic beverage commission, in such form as the commission requires, which shall have the responsibility for determining

whether the offender's license shall be suspended or revoked. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-122. Visible open containers on streets prohibited. Visible possession of alcoholic beverage in an unsealed container upon any public street shall be a violation of this chapter. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-123. Chapter not applicable to beer. No provision of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five percent (5%) or less, more specifically in chapter 2 of this title. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

CHAPTER 2

BEER¹

SECTION

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- 8-220. Persons under the age of twenty-one years, fraudulent evidence of age; purchase in behalf of a person under twenty-one years of age by a third person, etc.
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- 8-222. Prohibited conduct or activities by beer permit holder.
- 8-223. Suspension and revocation of beer permits.
- 8-224. Civil penalty in lieu of revocation or suspension.
- 8-225. Loss of clerk's certification for sale to minor.

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).

- 8-226. City business license.
- 8-227. Privilege tax.
- 8-228. Violations.
- 8-229. Employees liable for violations.
- 8-230. Application fee for sale of beer.

8-201. Purpose of chapter. This chapter is adopted to regulate the sale of beer or other beverages of like content as herein defined within the corporate limits of the City of Mount Pleasant. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-202. Beer business subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as provided by the laws of the State of Tennessee or any other beverages of like alcoholic content, within the corporate limits of the City of Mount Pleasant, subject to all of the regulations limitations and restrictions hereinafter provided, and subject to the rules and regulations promulgated by authorized public officials or boards. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-203. "Beer" and "intoxicating liquors" defined. The term "beer" as used in this chapter shall mean and include all intoxicating beverages such as beers, ales and other fermented liquors having an alcoholic content of not more than five percent (5%) in weight. The term "intoxicating liquor" as used in this chapter shall mean any beverage containing more than five percent (5%) alcoholic strength in weight as set forth in Tennessee Code Annotated, § 52-2-101. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-204. Beer board established. There is hereby established a beer board to be composed of three (3) residents of the City of Mount Pleasant, over the age of twenty-one (21) years, who shall be appointed by the mayor and approved by the board of commissioners. The members of said board shall hold office for one (1) year or until their successors are appointed and qualified. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-205. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall meet as necessary. The time for the meeting shall be set by the unanimous vote of members of the beer board. A special meeting of the beer board may be called by its chairman provided he gives reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place. (Ord. #2007-880, Jan.

2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-206. Record of beer board proceedings to be kept. The city manager of the City of Mount Pleasant shall furnish a secretary who shall attend all meetings of the beer board. The secretary shall make a separate record of the proceedings of all meetings of the beer board. This record shall be a public record and shall contain at least the following: The day of each meeting; the names of the board members present and absent; in cases of hearings before the beer board, a record of evidence introduced and testimony heard before the board; the provision of each permit issued by the board as to whether it is a permit for the sale for off-premises consumption or for sale for on-premises consumption. The secretary shall also obtain a list of the names and addresses of all holders of beer permits, which list shall be kept on current basis. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-207. 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. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-208. 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 city in accordance with the provisions of this chapter.

The beer board is hereby given broad powers of investigation, and it shall have the authority to inspect the premises of any applicant and at all reasonable hours may investigate the premises of all permit holders. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-209. Permit required for engaging in the beer business; term of permit; annual inspections of premises; filing and publication requirements. No person shall engage in the storing, selling, distributing or manufacturing of beer or other beverages of like alcoholic content within the corporate limits of the City of Mount Pleasant until he shall receive a permit to do so from the beer board of the City of Mount Pleasant. The permit shall at all times be subject to all of the limitations and restrictions herein provided. Also, the applicant shall certify that he or she has read and is familiar with the provisions of this chapter and applicable state law.

Permits so issued shall continue in effect so long as the owner and operator of the premises remains the same and the establishment continues to do business; the location of the premises remains the same; the business continues to be operated under the name identified in the permit application; and all inspections required under this chapter are passed and the annual privilege tax is paid. For the purposes of this chapter, 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. A permit holder must return the beer permit to the beer board of the City of Mount Pleasant within fifteen (15) days of termination of business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business name. The premises shall be inspected annually by all authorities that inspect for the initial issuance of the permit and the failure to comply with all the terms of such inspections may result in the revocation of the permit; provided, however, nothing contained herein shall be construed to require the periodic renewal of beer permits.

Public notice of said application shall be published in the local newspaper at least on one (1) occasion prior to the special called meeting of said beer board before any action shall be taken thereon. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-210. Restrictions on granting permits. No permit, shall be issued to sell any beverage coming within the provisions of this chapter:

(1) In violation of any provisions of the state law or of this chapter or any amendment thereto.

(2) In violation of the zoning ordinance of the City of Mount Pleasant. The judgment of the beer board on such matters shall be final, except as same is subject to review under Tennessee Code Annotated. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-211. Application forms; effect of false statements or misrepresentations therein. No permit shall be issued except upon an application in writing submitted to the beer board. The application shall be on proper forms furnished by the city recorder. Any misrepresentation or false statement contained in the application upon which a permit is used shall subject said permit to immediate revocation upon a hearing after notice as provided below, issued upon a proper complaint charging that there has been a misrepresentation or false statement in said application. At such hearing the burden of proof shall be upon the holder of the permit to establish the truth of each statement and representation made in his or her application. Any applicant making a false statement in the application shall forfeit the permit and shall not

be eligible to receive any permit for a period often (10) years. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-212. Application requirements. (1) Each application must explicitly and affirmatively state:

- (a) The name of the applicant;
- (b) The name of the applicant's business;
- (c) The location of the business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this chapter;
- (d) If beer will be sold at two (2) or more restaurants or other businesses in the same building, pursuant to the same permit, a description of all such businesses;
- (e) The names of persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;
- (f) The identity and address of a representative to receive annual tax notices and any other communication from the city;
- (g) That no person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant nor any person to be 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 the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance, or any crime involving moral turpitude within the past ten (10) years.
- (h) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premise consumption. If a holder of a beer permit for either on-premises consumption or for off-premises consumption desires to change the method of sale, such permit holder shall apply to the beer board for a new permit;
- (i) That the applicant will not engage in the sale of beer except at the place or places for which the beer board has issued a permit;
- (j) That no sale of beer will be made except in accordance with the permit granted;
- (k) That no sale will be made to persons under twenty-one (21) years of age, and that the applicant will not allow disorderly persons to loiter around the place of business;
- (l) That the applicant will be responsible for any gambling on the premises and the permit will be subject to revocation by reason of the same. That the applicant will not allow nor has allowed the place of business to become a public nuisance or a nuisance to law enforcing

agencies of the City of Mount Pleasant, nor that it has or will create a nuisance;

(m) That the applicant has secured a certificate or statement from the chief of police or other designated official that the premises which the application covers meets the requirements of this chapter and applicable state law. Such certificate or statement must be attached to the original application; and

(n) That the applicant has not had his or her permit revoked within one (1) year.

(o) No permit shall be issued unless the applicant is a lawful resident or citizen of the United States for one (1) year prior to application. Tennessee Code Annotated, § 57-5-103 (2016).

(2) No application shall be acted upon by the beer board unless:

(a) The application along with the nonrefundable application fee of two hundred fifty dollars (\$250.00) is submitted to the city recorder at least fifteen (15) days prior to the beer board meeting at which it is to be considered unless said period is waived by the beer board. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-213. Beer permits shall be restrictive; special event permits.

(1) All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted 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 in his permit.

(2) A special occasion beer permit may be issued by the beer board and is a permit which may be issued to a bona fide charitable, nonprofit or political organization. Such permit shall be issued for no longer than one (1) twenty-four (24) hour period, subject to the hours of sale which may be imposed by law or regulation, and such permit may be issued in advance of its effective date. Such permit shall not be issued unless and until there shall have been paid to the City of Mount Pleasant for each such permit a permit fee of one hundred fifty dollars (\$150.00), and there shall have been submitted to the beer board an application which designates the premises upon which beer shall be served. No such charitable, nonprofit or political organization shall be eligible to receive more than two (2) special occasion licenses in any calendar year. For the purpose of this section "bona fide charitable or nonprofit organization" means any corporation which has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C.501(c)) or any organization having been in existence for at least two (2) consecutive years which expends at

least sixty percent (60%) of its gross revenue exclusively for religious, educational or charitable purposes; "bona fide political organization" means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-102 or any political party as defined in Tennessee Code Annotated, § 2-13-101. (Ord. #2007-880, Jan. 2008, modified, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-214. Licenses not transferable; issued only to individuals, not to clubs, etc. Every license to engage in the business of selling, storing, and receiving beer and ale and other beverages encompassed in this chapter, shall be issued to an individual, and shall be in his name. No license may be issued to a club, association, firm, or corporation, but shall be issued to the person who will be immediately and directly responsible for the operation of the premises, and no such license shall be transferred, assigned, or used by any other person to conduct said business. No license shall be effective for any premises other than the premises for which said license is issued. No person shall be permitted to move or change the address of the licensed premises. If a license is issued for the ground floor of any structure within the corporate limits, the same may not be used in the event the place of business is changed to a basement under said premises, or to an upper floor above said designated location, nor shall such license permit the use of any adjacent, adjoining, or additional building.

When any person licensed hereunder as the owner, operator, or manager sells, rents, leases, transfers, or assigns his property rights in the licensed premises, the license issued to him or her shall be surrendered to the city manager at the city hall, and when any change in location of the premises shall occur, the licensee shall surrender his said license to the city manager as of the day of the change. (Ord. #2007-880, Jan. 2008, as amended by Ord. #2008-885, and replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-215. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses and stamps as required by law. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-216. Restrictions on permits based on proximity to schools, churches, public parks or other places of public gathering and on permits that would cause congestion of traffic or interfere with public health, safety and morals. No permit authorizing the sale, storing, distributing, or manufacturing 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. No permit authorizing the sale of beer for off-premises consumption shall be issued to an applicant whose location is less than two

hundred and fifty feet (250') from a church or one thousand feet (1,000') of any school. No permit authorizing the sale of beer for on-premises consumption, storage, distribution, or manufacture of beer shall be issued to an applicant whose location. is less than five hundred feet (500') of any church, or one thousand (1,000') feet of any school. All distance requirements shall be measured in a straight line from the front door of any proposed establishment that will be permitted to the front door of the church or school. This measurement shall be verified and certified by the city office of code enforcement and/or the Mount Pleasant Police Department in writing, which certification shall be provided to the beer board and made a part of the application file of any beer permit applicant. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-217. Restrictions as to issuance of licenses; location, arrangement and use of premises. Licenses and/or permits for the retail sale of beer shall not be granted under the following circumstances:

(1) When the issuance of such licenses and/or permits would cause the number then issued and outstanding to exceed the applicable maximum set forth in this chapter.

(2) When the applicant or any person employed or to be employed by the applicant has been convicted in any court of any offense against the laws on possession, transportation, storage, sale or manufacture of intoxicating liquor or of any crime involving moral turpitude within the last ten (10) years past.

(3) Where the proposed location of the business would violate the minimum distance requirements between the location of the business and any church or school as addressed in § 8-216.

(4) The business premises where the selling of beer, ale or other alcoholic beverages within the scope of this chapter is to be licensed is not so arranged that the front of said building provides an unobstructed view of the entire part of the premises where sales are made or customers served or where the premises does not comply with zoning or building code ordinances or regulations of the city.

(5) At any location where the business premises is located or to be located that would cause congestion of traffic, interference with schools, churches or other places of public gathering, or otherwise interferes with public health, safety and morals or is a hazard to public traffic, whether pedestrian or vehicular. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-218. Limitation on number of permits. Licenses shall be issued as follows:

- (1) Across the counter--licenses for on-the-premises consumption only.
- (2) Packaged--licenses for consumption of off-the-premises only.
- (3) Combination across the counter and packaged--licenses for both on- and off-the-premises sales.
- (4) The maximum number of retail across the counter beer licenses at any time shall be ten (10).
- (5) The maximum number of retail packaged beer licenses at any time shall be fifteen (15).
- (6) The maximum number of retail combination across the counter and packaged beer licenses at any time shall be three (3). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of the ordinance comprising this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-219. Sanitation for the premises of the permit holder. The premises of the permit holder shall be defined as the lot or property under control of the permit holder, both inside the building and outside the building. The permit holder shall be responsible for the sanitation of the premises including refuse storage, both inside and outside the building, lavatory and general cleanliness of the grounds and structure. The city manager, the county health officer or any properly authorized person is hereby authorized to enter the premises at all reasonable hours for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the City of Mount Pleasant. (Ord. #2007-880, Jan. 2008, as replaced by Ord. #2016-996, Jan. 2017, and Ord. #2017-1011, Nov. 2017)

8-220. Persons under the age of twenty-one years, fraudulent evidence of age; purchase in behalf of a person under twenty-one years of age by third person, etc. It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase or to possess any such beverage covered under this chapter, or for anyone to purchase such beverage for a person under twenty-one (21) years of age. It shall be unlawful for any person under twenty-one (21) years of age to present or offer to the holder of a permit, his agent or employee, any written evidence of his age is false, fraudulent or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any person who acts in violation of any one (1) or more of the provisions of this section shall be deemed guilty of a misdemeanor and if eighteen (18) years of age, or more, shall upon conviction, be subject to a

penalty under the general penalty clause for this code; if seventeen (17) years of age, or less, he shall be taken before a juvenile judge for appropriate proceedings. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-221. Investigation of applicants, agents and/or employees.

Applicants for, and holders of retail permits under this chapter and their agents or employees are subject to be investigated by any municipal, county or state authorities, including members of the beer board, and must submit such information and records as the beer board may require. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-222. Prohibited conduct or activities by beer permit holder. It

shall be unlawful for any beer permit holder to:

(1) Employ any person in the distribution or sale of beer who, within the previous ten (10) years, has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance, or any crime involving moral turpitude.

(2) Employ any person under eighteen (18) years of age in the sale or dispensing of beer or intoxicating liquors at retail for consumption on the premises. The holder of a beer permit shall be held strictly accountable for the violation of this provision and the burden of ascertaining the age of any person shall be upon the holder and operator of such place of business.

(3) Make or allow any sale of beer or intoxicating liquor, or make, cause or allow to be made any gift thereof, between the hours of 3 :00 A.M. and 8:00 A.M. during any night of the week except on Sunday between the hours of 3:00 A.M. and 12:00 noon on Sunday. Any beverage sold before 3:00 A.M. for consumption on the premises shall be consumed prior to 3:15 A.M. and any person consuming beer on the premises after such hour and until 8:00 A.M. Monday through Saturday and 12:00 noon on Sunday shall be guilty of a misdemeanor, however, with the exception of Sunday the sale of package beer or intoxicating liquors shall be allowed after 8:00 A.M. on any day of the week.

(4) Allow any loud, unusual or obnoxious noises to emanate from the premises.

(5) Make or allow any sale of beer or intoxicating liquors, or make, cause or allow to be made any gift thereof to a person under twenty-one (21) years of age, or permit such sale by an employee or any person in any way connected with his place of business. The holder of a beer permit shall be held strictly accountable for the violation of this provision and the burden of ascertaining the age of any customer shall be upon the owner or operator of such place of business and he shall be held strictly accountable for all acts of his employees.

(6) Allow any minor to loiter in his place of business. The burden of ascertaining the age of any person shall be upon the owner or operator of such place of business and he shall be held strictly accountable for any actions of his employees for the violation of this provision.

(7) Make or allow any sale of beer or intoxicating liquor, or make, cause or allow to be made any gift thereof, to any intoxicated person.

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

(9) Allow drunk or intoxicated persons to loiter on his premises.

(10) Fail to provide and maintain adequate separate sanitary toilet facilities for men and women in facilities selling beer or intoxicating liquors for consumption on the premises.

(11) Allow any sale or delivery of beer or intoxicating liquors for consumption on the premises outside the building occupied by the holder of the permit, except for all decks, patios, enclosed tents and other outdoor serving areas that have direct access to the building and that are contiguous to the exterior of the building in which the business is located and that are operated by the business. Further, a beer permit holder for the sale of package beer may not deliver said beer.

An additional exception exists for facilities whose primary business is serving food, provided such business is located in the central business district, as defined by the zoning ordinance. Such facilities covered by this exception may provide the outdoor sale or delivery of beer or intoxicating liquors for consumption on the premises so long as the location is, contiguous to the primary structure and barricaded to ensure that access may only be made through the host facility and not by any other means.

Such facilities covered by this exception may also occupy portions of the public right-of-way, namely sidewalks, so long as access requirements are met and a minimum right of way width of five feet (5') is continuously maintained for public travel on such sidewalks at all times.

(12) The owner or operator shall be held strictly accountable for any actions of his employees which violate any of the above provisions. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-223. Suspension and revocation 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 or of violating any of the provisions of this chapter. 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 police chief or by any member of the beer board. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements

of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-224. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-225. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission

within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-226. City business license. Each applicant granted to sell any beverage coming within the provisions of this chapter shall, before engaging in such sale, secure from the city recorder of the City of Mount Pleasant, Tennessee, a city business license as provided in the Tennessee Code Annotated, and shall on any annual inspection provide evidence that the current business license has been issued. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-227. 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 each successive January 1 to the City of Mount Pleasant, 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. The city may utilize these tax funds for any public purpose (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-228. Violations. Except as provided in § 8-220, 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. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-229. Employees liable for violations. Any employee of any permit holder who violates the provisions of this chapter or an provision of the state beer act while so employed by such permit holder shall be guilty of a misdemeanor which shall be punishable under the general penalty clause of this code. (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

8-230. Application fee for sale of beer. Each applicant for a beer permit shall be required to pay an application fee of two hundred fifty dollars (\$250.00) to the city recorder upon the filing of an application. No portion of the fee shall be refunded to the applicant notwithstanding whether an application is approved or denied. There is also a privilege tax on the business of selling, distributing, storing, or manufacturing beer in Tennessee of one hundred dollars

Change 3, December 19, 2017

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(\$100.00). (as added by Ord. #2016-996, Jan. 2017, and replaced by Ord. #2017-1011, Nov. 2017)

CHAPTER 3

ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION

SECTION

8-301. Alcoholic beverages subject to regulation.

8-302. Privilege tax on retail sale of alcoholic beverages for on premises consumption.

8-303. Annual privilege tax to be paid to city recorder.

8-304. Annual privilege tax to be paid to city recorder.

8-301. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57, chapter 4, except and by rules and regulations promulgated there under, and as provided in this chapter.

8-302. Privilege tax on retail sale of alcoholic beverages for on premises consumption. Pursuant to the authority contained in 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 within the city. It is the intent of the board of commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the city, the same as if said code sections were copied herein verbatim.

8-303. Annual privilege tax to be paid to city recorder. Any person exercising the privilege of selling alcoholic beverages for on premises consumption in the city shall remit annually to the city recorder the appropriate tax described in § 8-302. Such payments shall be remitted on or before January 1 of each year.

8-304. Hours of sale. No alcoholic beverage within the scope hereof shall be sold between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday, or between the hours of 3:00 A.M. and 12:00 Noon on Sunday.