

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

1. INTOXICATING LIQUORS.
2. BEER.

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

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8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contain an alcoholic content of five percent (5%) by weight, or less. (2000 Code, § 8-101)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by said code when such sales are conducted within the corporate limits of Elizabethton, Tennessee. It is the intent of the mayor and council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Elizabethton, Tennessee, the same as if said code sections were copied herein verbatim. (2000 Code, § 8-102)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in

¹State law reference

Tennessee Code Annotated title 57.

Tennessee Code Annotated, § 57-4-103, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Elizabethton General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or an association engaging in the business of selling at retail in the City of Elizabethton any alcoholic beverages for consumption on the premises where sold. (2000 Code, § 8-103)

8-104. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Elizabethton shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (2000 Code, § 8-104)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Elizabethton, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall qualify to receive a beer permit from the city. Note: Although an applicant may qualify, the beer board shall regulate the issuance of all beer licenses. (2000 Code, § 8-105)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (2000 Code, § 8-106)

8-107. Retail liquor or package stores. (1) Sale authorized. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store within the corporate limits of the City of Elizabethton, provided such retail license has been appropriately approved by the City of Elizabethton and the State of Tennessee, and such sales are made in compliance with applicable state and federal statutes, rules and regulations, as well as the provisions established in this chapter.

(2) License and certificate required. It shall be unlawful for any person, firm or corporation to sell alcoholic beverages at retail without first obtaining a license for such privilege in an off-premise liquor store through the

State of Tennessee Alcoholic Beverage Commission, and without obtaining a certificate of compliance for a specific store location by the Elizabethton City Council as required by Tennessee Code Annotated, § 57-3-208.

(3) License regulations. The requirements or restrictions established in Tennessee Code Annotated, §§ 57-3-204 through 57-3-210 apply to applicants for a retail liquor store license in Elizabethton, including but not limited to the following:

(a) No retail license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county except as specified in Tennessee Code Annotated, § 57-3-210(b)(1).

(b) No retailer or any employee shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time of the application, with the exception of such person whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. No license shall be issued to a retailer who within ten (10) years preceding the application has been convicted of any offense under the laws of the State of Tennessee or any other state in the United States prohibiting or regulating the sale, possession, transportation, storing, or manufacturing or otherwise handling of intoxicating liquors.

(c) No person shall have ownership in, or participate in, either directly or indirectly, the profits of any wholesale or retail liquor business licensed through Tennessee Code Annotated, unless the interest in such business and the nature, extent and character thereof shall appear on the application, or unless such interest is fully disclosed to the alcoholic beverage commission and is approved by it.

(d) No retailer or any employee thereof shall be a person under eighteen (18) years of age.

(4) License application. Any person, firm, or corporation desiring to sell alcoholic beverages at a retail liquor store and not for consumption on premises, shall make application to the Tennessee Alcoholic Beverage Commission (ABC) for a retailer's license. The following conditions apply:

(a) Conditions established in Tennessee Code Annotated, § 57-3-204 must be met including a one-time initial application fee of three hundred dollars (\$300.00) or current application fee, an additional permit fee, as well as any applicable rules and regulations of the alcoholic beverage commission.

(b) The license application must be accompanied by a properly executed certificate of compliance from the City of Elizabethton.

(c) The license expires in twelve (12) months following the date of issuance. Each license must submit renewal applications annually to the ABC accompanied by the annual license fee.

(d) The applicant for a license must meet the public notice requirements established in sections 0100-03-.09(10) and (11) of the rules of the alcoholic beverage commission.

(5) Application for certificate of compliance. An applicant for a license shall first obtain a certificate of compliance from the City of Elizabethton, as provided in Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the city clerk. The application includes a request for a certificate of good moral character, as provided by Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the city clerk. The application includes a request for a certificate of good moral character, as provided by Tennessee Code Annotated, § 57-3-208, et seq. Applications shall include but not be limited to the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer or otherwise. In the event that a corporation, partnership, limited liability company, or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the City of Elizabethton.

(b) A statement that each applicant or member in the applicant group has been a bona fide resident of the State of Tennessee for at least two (2) years immediately preceding the date the application is filed.

(c) The names and addresses of at least three (3) residents of the City of Elizabethton or the State of Tennessee that have known each applicant for at least two (2) years.

(d) Occupation or business name and location of such business of applicant or persons in the applicant group, and length of time engaged in such occupation or business, including the name of the licensee and address of any other off-premise liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group members holding each interest.

(e) In the case where the applicant is a partnership, corporation, limited liability company or other such legally recognized entity, the application shall be accompanied by a copy of the partnership agreement, corporate charter, operations agreement or other such document as well as a breakdown of all partners, shareholders, members, etc. with their ownership percentages.

(f) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the retail liquor store.

(g) Certification that the applicant or applicant group or any employee, now intended or in the future, that will be employed to manage or assist in the operation of the retail liquor store has not been convicted of a felony within the ten (10) year period immediately preceding the date

of the application of any violation of any state or federal law, or of any violation of any municipal ordinance involving alcohol related offenses.

(h) Name of the retail liquor store proposed in the application and the zoning designation applicable to such location.

(i) Address of the retail liquor store proposed in the application.

(j) A site plan drawn to scale of not less than one inch (1") equals twenty feet (20') that includes the following information:

(i) The shape, size, and location of the lot where the retail liquor store is to be located including ingress and egress to the lot.

(ii) Off-street parking spaces and off-street loading/unloading area.

(iii) Ingress and egress to lot.

(iv) Location of all doors accessing the building with designation of public access to building and designation of any landscaping, walls, fencing or other such possible obstruction limiting visual access to building interior and entrances.

(v) Designation of zone(s) of lot and adjoining properties.

(vi) Owners of adjoining properties, designation of use, and name of business.

(vii) The identification of every parcel within one hundred feet (100') of the lot which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.

(viii) Lighting of building exterior and parking area.

(k) Certification by the applicant stating that the premises of the proposed retail liquor store are in full compliance with the distance requirements established in § 8-107(8)(a) of this chapter.

(l) The agreement of each applicant to comply with state and federal statutes, City of Elizabethton regulations governing retail liquor stores, and all state rules and regulations with reference to the sale of alcoholic beverages.

(m) Verification that the applicant has secured the location for the business at the location submitted in the application.

(n) A time schedule detailing any construction or renovation of the store building, improvements to grounds, and store opening date.

(o) The application form shall be signed and verified by each person who has any interest in the license either as owner, partner, stockholder, director, officer or otherwise.

(6) Application advertising requirements. Before a certificate of compliance application for a retail liquor store may be considered by the Elizabethton City Council, whether the application is for a transfer of an existing license to a new location or for a new license, the applicant must place at least one (1) advertisement, at his/her own expense, in a newspaper of general

circulation in the City of Elizabethton, a minimum of seven (7) days prior to the application being considered by the Elizabethton City Council with the published notice including the following information:

- (a) Name and address of applicant;
- (b) Nature and purpose of application;
- (c) Location/address of store location;
- (d) Date the application is proposed to be reviewed by the Elizabethton City Council.

This advertisement must be published for three (3) consecutive issues.

(7) Review and consideration of applications for certificate of compliance. Applications to the City of Elizabethton for a certificate of compliance needed to license a retail liquor store shall be submitted to the Elizabethton City Clerk. The city clerk shall review the documentation provided to see that all information requested has been submitted and appears to be complete. The city clerk will review materials submitted for compliance, and will to the extent possible, identify insufficient information. It is the responsibility of the applicant to provide all of the information required. An application shall not be deemed "filed" until it contains all of the information requested. After the initial review, a date shall be determined to send the full application to the Elizabethton City Council for consideration. The applicant must provide proper notification in an acceptable publication at least seven (7) days in advance of the meeting in which the Elizabethton City Council will consider the application.

(8) Restrictions on location of and access to retail liquor stores. No location for a retail liquor store shall be approved on any premise within the City of Elizabethton, except on premises that are:

(a) At least one hundred feet (100') from the nearest portion of any church, public or private school ground, day care, public playground or park, or public or recreational facility. For the purposes of measurement, the distance shall be determined from the center of the public entrance to the retail liquor store in a straight line the shortest most direct distance to the major entrance to the facilities and institutions listed. The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, and the future presence of any uses listed above in this subsection necessitating the one hundred foot (100') distance requirement shall not be grounds for revocation of a licensee or denial of a certificate if a valid license had been issued to any retail liquor store at the same location and the business has been in continuing operation since that date.

(b) Developed within a building in which the retail liquor store is only on the ground floor.

(c) Under normal circumstances a retail liquor store shall have one (1) entrance for use by the public. Circumstances may exist, like the premises being served by multiple public streets, or an on-premise liquor

store being attached to a large complex, in which the applicant may petition for a second public entrance. However, the Elizabethton Regional Planning Commission will have to recommend the second entrance, and in no case shall the retail liquor store have more than two (2) public entrances.

(9) Restrictions on issuance of certificate of compliance. No original or renewal certificate of compliance shall be issued for any location until:

(a) An application has been filed with the city clerk.

(b) All requirements to obtain a certificate have been met.

(c) A written certification by the applicant is submitted stating that the premises of the retail liquor store are in full and complete compliance with the distance requirements established in § 8-107(8)(a) of this chapter.

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

(e) The application has been considered at a regular or called meeting of the Elizabethton City Council and approved by majority vote.

(10) Term of certificate of compliance. Once issued by the Elizabethton City Council, a certificate of compliance required by Tennessee Code Annotated, § 57-3-208 shall be valid for two (2) years. A new certificate, therefore, is required every other year, to be submitted to the ABC with application for the annual license renewal.

(11) Number of stores--adequate availability. For the purpose of determining whether alcoholic beverages are reasonably and generally available to the citizens and residents of the City of Elizabethton, there shall be no more than one (1) operating liquor store for each four thousand five hundred (4,500) residents of the City of Elizabethton. Based on the 2012 City of Elizabethton population of approximately fourteen thousand (14,000) residents, there will be no more than three (3) liquor stores within the City of Elizabethton.

(12) Full and accurate disclosure required. (a) It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail store license under this chapter, unless his/her interest in the business and the nature, extent and character thereof shall appear on the application for a certificate of compliance; or if the interest is acquired after the issuance of a license, unless it is fully disclosed to and approved by the Elizabethton City Council. Where such interest is owned by such a person on or before the application for any certificate, the burden shall be upon such person to see that this section is not violated, whether he/she signs or prepares the application, or whether the same is prepared by another, or if the interest is acquired after the issuance of the certificate, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(b) 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 Elizabethton City Council may refuse to issue a certificate if, upon investigation, the city 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 retail liquor store, or if the interest of any applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by any applicant concerning any matter related to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are part of the application.

(c) If the provisions of this section and chapter are alleged to have been violated, the Elizabethton City Council may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant(s) or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

(13) Regulation of retail sales. Retailers licensed under Tennessee Code Annotated, § 57-3-204 shall comply with the regulation of retail sales established in Tennessee Code Annotated, § 57-3-406 included but not limited to the following:

(a) Hours and days of operation. No retailer shall sell or give away or otherwise dispense any alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M. on Monday through Saturday. No retailer shall sell or give away alcoholic beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday each week.

(b) Sale during holidays. No retailer shall sell or give away alcoholic beverages on Thanksgiving Day, Christmas Day, New Year's Day, Independence Day (Fourth of July), and Labor Day.

(c) No pinball machine, music machine, or other amusement device shall be permitted in any liquor store.

(d) No alcoholic beverages shall be sold for the consumption on the premises of the retailer.

(e) Retail liquor stores shall only sell alcoholic beverages.

(f) The sale and delivery of alcoholic beverages at a retail liquor store shall be confined to the building premises of the licensee, and no curbside service or drive-through service is permitted.

(14) License display. Persons granted a license to carry on any 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.

(15) Advertising/signage. Advertising by a licensee, and signs, displays, posters and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage

Commission, and/or the sign provisions and restrictions of the underlying zoning district as may be specified in the City of Elizabethton Sign and Zoning Ordinances.

(16) Transfer of license and certificate. The holder of a license for a retail liquor store may not sell, assign or transfer such license to any other person, and such license shall be good and valid only for the twelve (12) months after the same was issued. Except as expressly authorized, there shall be no transfer of any license from one location to another. An application for a retail liquor store license from the alcoholic beverage commission resulting from a change in ownership or store location shall require a re-submittal of an application for a certificate of compliance.

(17) Inspection fee levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the city, and to provide a means of enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) of the wholesale price of all alcoholic beverages sold by wholesalers to any licensed retail liquor store within the corporate limits of the City of Elizabethton. Collection of this inspection fee by wholesalers shall be undertaken under regulations established in Tennessee Code Annotated, §§ 57-3-501 through 57-3-503, including but not limited to the following:

(a) The inspection fee is imposed upon licensed retailers but is collected by wholesalers.

(b) The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages, and said fee may be added by the wholesaler to the invoice for alcoholic beverages sold to the licensed retailers.

(c) Each wholesaler making sales to retailers located within the City of Elizabethton city limits shall make monthly payments to the City of Elizabethton.

(d) Monthly payments shall be paid by the twentieth day of the month following which sales were made, and shall be accompanied with monthly reports that include the information required in Tennessee Code Annotated, § 57-3-503.

(e) Wholesalers collecting and remitting inspection fees to the City of Elizabethton shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of the inspection fees collected, and such reimbursement may be deducted and shown on the monthly report to the City of Elizabethton.

(f) Failure to collect and/or report and/or to pay the inspection fee collected by the day required shall result in a penalty of ten percent (10%) of the fee due, which shall also be paid to the City of Elizabethton.

(g) The City of Elizabethton has the authority to audit the records of wholesalers reporting sales to retail liquor stores in Elizabethton to determine the accuracy of reports.

(h) Nothing within § 8-107(16) herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the City of Elizabethton.

(i) The inspection fee levied in this chapter shall be in addition to any general gross receipts, sales and other general taxes applicable to the sale of alcoholic beverages, and shall not be in substitution for such taxes.

(18) Surrender of license if business discontinued. Whenever any licensee discontinues business for any reason, he/she shall immediately notify the alcoholic beverage commission and the city clerk in writing and surrender the license and certificate of compliance.

(19) Revocation procedures. Whenever the Elizabethton City Council finds that a licensee has been, or is, in violation of the Tennessee Code Annotated, title 57, chapter 1, the rules and regulations of the alcoholic beverage commission, or the provisions of this chapter, the city council shall certify such violation(s) to the state alcoholic beverage commission, in such form as the commission requires. The alcoholic beverage commission shall have the responsibility for determining whether the offender's license shall be revoked. The Elizabethton City Council, upon determination of violations of state or local regulations governing the retail sale of alcoholic beverages may revoke the city issued certificate of compliance, and shall communicate said revocation to the alcoholic beverage commission for possible further action.

(20) Penalties. Any violation of the terms of this chapter and section may be punishable by a fine under the general penalty clause of the Elizabethton Municipal Code in addition to any other penalty herein provided, and in addition to the loss of license. Each separate occurrence shall constitute a separate violation. (Ord. #48-29, Dec. 2012, modified)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beverage board; creation; membership; authority to issue, revoke, and suspend beer permits; organization and procedures.
- 8-202. Permit required to sell, store, distribute, or manufacture beer; application for permit to be sworn to, etc.
- 8-203. Contents and filing requirements of application for permit.
- 8-204. No permits to be issued to anyone who has been convicted of any violation of intoxicating beverage laws within the last ten years.
- 8-205. City clerk to issue permit upon approval of board only to applicants of an existing business and payment of required fees.
- 8-206. Payment of fees; display of permits; sales by distributors, etc.; permits not transferable; permit required for each location; limitation on number of permits for each person.
- 8-207. Types of retail permits.
- 8-208. Constraints on issuance of permits.
- 8-209. Days and hours of sales regulated.
- 8-210. Distributors, etc. to be licensed by state, to comply with zoning laws, and to sell only to valid permit holders.
- 8-211. Sign restrictions.
- 8-212. Sales to persons under the legal age to purchase beer as set by state statute is prohibited.
- 8-213. Permit holders not to allow loitering or sales to intoxicated persons.
- 8-214. Certain non-conforming permittees allowed to continue.
- 8-215. Retailers or public conveyances not to deliver beer.
- 8-216. Privilege tax.
- 8-217. Premises constituting non-conforming uses not to be licensed.
- 8-218. Police inspections.
- 8-219. Credit sales to retailers prohibited.
- 8-220. No adjustments for shortages, etc., to be made by wholesalers except at time of delivery.

¹Municipal code references

Municipal offenses: title 11, chapter 1.

Wholesale beer tax: § 5-401.

State 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).

- 8-221. No gifts or price reductions by wholesalers.
 8-222. All sales to be within licensed premises.
 8-223. Violations and penalty.

8-201. Beverage board; creation; membership; authority to issue, revoke, and suspend beer permits; organization and procedures. There is hereby created a board, which shall be known and designated as the "Beverage Board of the City of Elizabethton," hereinafter referred to in this chapter as the "board." Such board shall be composed of the seven (7) members of the city council.

It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store more than two (2) cases, distribute, and sell beer and other beverages of an alcoholic content of not in excess of five percent (5%) by weight, hereinafter referred to as beer, to the persons and in the manner provided in this chapter.¹

It is hereby declared that the sale, storage, manufacture, and distribution of beer in the city is a privilege, and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture, or distribute beer in the city, including the sole right to determine the suitability and approve the general appearance of the proposed structure.

The board is empowered to elect its own chairman and other officers, to make its own regulations with respect to meetings or hearings, and may deny the issuance of any permit or license whenever it determines that such issuance would be detrimental to public health, safety, or morals. The board may likewise suspend or revoke the permit and license of any licensee who violates any of the laws of the United States, the State of Tennessee, or the City of Elizabethton, or whenever it shall satisfactorily appear that the premises or business of any permittee or licensee is being maintained and operated in such manner as to be detrimental to public health, safety, or morals.

Where a permit or license is revoked, no new license or permit shall be issued to such permittee nor issued to any other applicant to permit the sale, storage, manufacture, or distribution of beer on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (2000 Code, § 8-201)

8-202. Permit required to sell, store, distribute, or manufacture beer; application for permit to be sworn to, etc.² (1) It shall be unlawful for

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference

any person to sell, store more than two (2) cases, distribute, or manufacture beer within the city without having first obtained a permit and license as provided in this chapter.

(2) Before any person shall be authorized to sell, store more than two (2) cases, distribute, or manufacture beer, he shall make application to the board, upon a form prescribed by it, for a permit to do so.

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

(4) The permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to another owner and 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.

(5) The applicant must agree in his application to comply with all the laws of the United States, and of the State of Tennessee, and all ordinances of the City of Elizabethton, and said application shall be supported by an affidavit or oath that the facts therein stated are true. (2000 Code, § 8-202)

8-203. Contents and filing requirements of application for permit.

The application shall contain the following:

(1) The name and address of the applicant;

(2) The name of the applicant's business;

(3) The location of applicant's business by street or other geographical description to permit an accurate determination of conformity with the requirements of this chapter;

(4) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption, or for off-premises consumption, or both of the foregoing. Any change in the type of permit shall require approval of the beverage board;

(5) A statement that the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license or permit was issued to such applicant;

(6) That no sale will be made to any person under the legal age to purchase beer as set forth by state statute; that the applicant will not permit minors or disorderly or disreputable persons, or persons heretofore connected with the violation of the liquor laws to loiter around the place of business; that no minor shall be employed in the direct sale, storage, manufacture, or distribution of beer;

(7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked;

(8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has

²(...continued)

Tennessee Code Annotated, § 57-5-103.

been convicted of any violation of the law against prohibition, sale, manufacture, storage, distribution, usage, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years preceding the filing of such application;

(9) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least five percent (5%) ownership interest in the applicant;

(10) Identity and address of a representative to receive annual tax notices and any other communication from the beverage board or its representative;

(11) That no brewer, manufacturer, distributor, or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on;

(12) A statement that the applicant is willing to be fingerprinted by the Police Department of the City of Elizabethton and is willing to be investigated by municipal, county, state, and federal law enforcement agencies concerning the applicant's background and record;

(13) An oath or affidavit by the applicant that the facts set forth in the application are true;

(14) Any applicant making false statements in the application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years;

(15) The application shall be submitted to the secretary of the beverage board not less than fifteen (15) days prior to the next meeting of the city council in order to allow a meeting of the beverage board and provide proper notice as required by law of such meeting. The applicant shall appear in person before the beverage board. (2000 Code, § 8-203)

8-204. No permits to be issued to anyone who has been convicted of any violation of intoxicating beverage laws within the last ten years.

No permit shall be issued except to persons of good moral character who have not been convicted of any violations of the laws against manufacturing, selling, transporting, storing, distributing, illegally using or possessing intoxicating liquors or of selling or possessing beer illegally or of any crime involving moral turpitude, within (10) years of the date of application; nor shall any permit be issued to any firm, corporation, syndicate, joint stock company, or association, who have officers, stockholders, or employees who have had such convictions.

A permit holder must return a permit to the beverage board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on the termination of the business, change in ownership, relocation of the business or change of the business's name. Failure to notify the city clerk of any of these

changes shall be grounds to cite permit holder to the beverage board to show cause why the permit should not be suspended or revoked. (2000 Code, § 8-204)

8-205. City clerk to issue permit upon approval of board only to applicants of an existing business and payment of required fees. Permits shall be approved or disapproved by the board only to applicants operating an existing business and if approved, a license shall be issued by the City Clerk for the City of Elizabethton, upon proof by the applicant that all permits have been obtained and that all required fees and privilege taxes have been paid and that the applicant has met the requirements of this chapter and the laws of the State of Tennessee and the United States of America. (2000 Code, § 8-205)

8-206. Payment of fees; display of permits; sales by distributors, etc.; permits not transferable; permit required for each location; limitation on number of permits for each person. All permit fees shall be paid annually in advance and shall not be subject to refund in whole or in part. All permit holders shall display and keep displayed their beer permits and beer licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(1) No manufacturer, distributor, or warehouseman shall sell to anyone except a holder of a valid beer permit.

(2) Permits shall not be transferable.

(3) A separate permit shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute, or sell beer, except where a permit holder operates two (2) or more restaurants or other businesses within the same building, the permit holder may in his discretion operate some or all such businesses pursuant to the same permit.

(4) Upon submission of an application there shall be collected an application fee of two hundred fifty dollars (\$250.00). (2000 Code, § 8-206)

8-207. Types of retail permits. Permits for the retail sale of beer issued by the board shall be of two (2) types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for the sale of beer to be consumed off the premises. (2000 Code, § 8-207)

8-208. Constraints on issuance of permits. (1) All beer permits for the sale of beer in the City of Elizabethton, shall be issued in the discretion of the beverage board and the board shall issue permits to applicants for the sale of beer for on-premise consumption, off-premise consumption, or for both at the same location pursuant to one (1) permit.

(2) Without regard to the number of permits issued, however, "on-premise" permits shall be issued only to restaurants, clubs and hotels. A restaurant shall be required to have a genuine capacity of and for not less than forty (40) persons and shall be required that the primary purpose of the business is the sale of food prepared and consumed on-site. A club will mean any club as defined in Tennessee Code Annotated, § 57-4-102 and by the alcoholic beverage commission. A hotel will mean any hotel as defined by Tennessee Code Annotated, § 57-4-102.

(3) Off-premise permits shall be issued only to establishments operating as a grocery or convenience store. A grocery shall be defined, for the purpose of this chapter, to mean a business establishment whose primary business is the sale of food merchandise, household items, and health and beauty aids. A grocery shall derive the majority (more than fifty percent (50%)) of its gross sales from the retail sale of the items set forth in the preceding sentence. A convenience store shall be defined, for the purpose of this chapter, to mean a business establishment where food stuffs and food merchandises are sold and may also be participating in the retail sale of gasoline or other petroleum products, but shall have an area for the sale of food stuffs and food merchandise of at least one thousand (1,000) square feet. A convenience store shall derive the majority (more than fifty percent (50%)) of its gross sales from the retail sale of the items set forth in the preceding sentence.

(4) No permit for the sale of beer for either "on-premise" consumption or "off-premise" consumption shall be issued to any person or establishment whose place of business is within two hundred twenty feet (220') of any established church or school building. For the purpose of determining the two hundred twenty foot (220') requirement as set forth herein, the distance shall be measured by straight line distance from the closest point of the main structure of the proposed site of the applicant's business to the closest point of the church or school building. The applicant, if subject to this subsection, shall be required to submit a survey prepared by a Tennessee registered land surveyor, showing the distance to the nearest church or school. The survey as submitted shall become a part of the application and shall be subject to the provisions of chapters 1 through 2 of title 8 of the Elizabethton Municipal Code.

Restaurants that are issued a license by the State of Tennessee permitting the legal sale of alcoholic beverages for consumption on premises as provided by law shall be exempt from the provisions of the paragraph above.

(5) A temporary permit may be issued by the city clerk to allow the continued sale of alcoholic beverages at a location which presently has a valid permit. A temporary permit may be issued in order to allow a new application to be administratively processed and considered by the beverage board. The applicant for a temporary permit shall meet all requirements set forth in these ordinances, and the temporary permit shall not be issued for more than sixty (60) days.

(6) Shopping center districts which have heretofore met or hereafter meet the requirements of the Zoning Ordinance of the Elizabethton Municipal Code shall be exempt from the provisions of subsection (4) of this section. (2000 Code, § 8-208, as amended by Ord. #48-28, Dec. 2012)

8-209. Days and hours of sales regulated. It shall be unlawful for any person to sell beer between the hours of 3:00 A.M. until 8:00 A.M. Monday through Saturday, or between the hours of 3:00 A.M. until 10:00 A.M. on Sunday. (2000 Code, § 8-209)

8-210. Distributors, etc. to be licensed by state, to comply with zoning laws, and to sell only to valid permit holders. (1) In addition to other requirements set out in this chapter, all distributors, wholesalers, warehousemen, and manufacturers shall be duly licensed under the law to do business in the State of Tennessee.

All distributors, wholesalers, warehousemen, and manufacturers of beer having a place of business within the corporate limits of the City of Elizabethton shall locate same in areas designated and zoned for manufacturing under the laws and ordinances of the City of Elizabethton.

(2) It shall be unlawful within the corporate limits of the City of Elizabethton for any distributors, wholesalers, warehousemen, and manufacturers of beer or for any of their salesmen or representatives to sell or deliver beer en route to or from delivery vehicles to any person or place other than holders of valid retail beer permits; and it shall be the duty of such all distributors, wholesalers, warehousemen, and manufacturers, their salesmen or representatives, to ascertain whether or not such person or place has been issued a valid beer permit by the City of Elizabethton. (2000 Code, § 8-210)

8-211. Sign restrictions. It shall be unlawful for any person authorized to sell beer, for either on the premises consumption or off the premises use, to erect or maintain more than one (1) advertising or display sign upon the outside of the building or in a window. Said sign may use the word "beer" or the name of any brand of beer. Said advertising or display sign shall not exceed four inches (4") in height and eighteen inches (18") in length, and the sign shall be placed parallel with and on the building or in a window. (2000 Code, § 8-211)

8-212. Sales to persons under the legal age to purchase beer as set by state statute is prohibited. It shall be unlawful for any person engaged in either "on-premise" or "off-premise" sale of beer to make or permit to be made any sales of beer to persons under the legal age to purchase beer as set by state statute. It shall be unlawful for any person to purchase beer for the purpose of selling or giving same to anyone not entitled to purchase beer as set by state statute, and any such purchase of beer is subject to fine and community service as set by state statute. (2000 Code, § 8-212)

8-213. Permit holders not to allow loitering or sales to intoxicated persons. It shall be unlawful for any permit holder to allow persons to loiter around the place of business, and it shall be unlawful for any permit holder to make, permit, or allow to be made any sale of beer to any person who is intoxicated. (2000 Code, § 8-213)

8-214. Certain non-conforming permittees allowed to continue. Notwithstanding any provision to the contrary, any place, premises or location which has previously been issued a valid and lawful permit for the sale of beer for either on- or off-premises consumption, but which place, premises or location cannot meet the current provisions and requirements of chapters 1 through 2 of title 8 of the Elizabethton Municipal Code, a new owner, proprietor or licensee who is an immediate successor in interest to said place, premises or location shall be issued a new permit for the sale of beer although said place premises or location does not conform to the current provisions of chapters 1 through 2 of title 8 of this code, provided the issuance of said permit is not detrimental to the public health, safety or morals and the applicant meets the individual requirements set forth in chapters 1 through 2 of title 8 of the Municipal Code of Elizabethton, Tennessee. (2000 Code, § 8-215)

8-215. Retailers or public conveyances not to deliver beer. It shall be unlawful for any holder of a retail permit or license to sell beer, or to deliver beer away from the premises designated and described in the license. It shall further be unlawful for any owner or operator of a public conveyance to purchase or deliver beer for or to any person not presently therein. (2000 Code, § 8-216)

8-216. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer a privilege tax of one hundred dollars (\$100.00). The permit holder shall remit the privilege tax to the city clerk on January 1, 1994, and each successive January 1 thereafter. The city clerk shall mail notice of the tax to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to each permit holder at the address specified in the permit application. If a permit holder does not pay the tax by January 31, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the permit shall be void. At the time a new permit is issued to any business subject to this tax, the permit holder shall

¹Municipal code reference
Privilege taxes: title 5.

be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (2000 Code, § 8-217)

8-217. Premises constituting non-conforming uses not to be licensed. No retail permit or license shall be issued to any person to sell beer from or any place, premises or location which constitutes non-conforming use under the zoning laws and ordinances of the City of Elizabethton in effect at the time of application for such permit or license. However any place, premises or location originally lawfully licensed to sell beer prior to the enactment of the provisions of the zoning ordinance but which place, premises or location presently does not conform with the current provisions of the zoning ordinance may be issued a new permit or license to sell beer and such non-conforming use allowed to continue provided it meets the requirements of the Elizabethton Zoning Ordinance¹ governing the continuance of non-conforming uses and the individual applicant meets the requirements set forth in chapters 1 through 2 of title 8 of the Municipal Code of Elizabethton, Tennessee. (2000 Code, § 8-218)

8-218. Police inspections. It shall be the duty of the Police Department of the City of Elizabethton or of any special police officers appointed by the city manager to inspect the place of business and premises of the holders of permits and licenses under this chapter, and it shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time that such place is open for business. (2000 Code, § 8-219)

8-219. Credit sales to retailers prohibited. In order to collect the wholesale beer tax efficiently, all sales of beer by wholesalers to retailers or any other person, except sales to duly licensed wholesalers, shall be for cash only. The intent of this section and provision is that wholesale sale of beer and delivery and payment therefor shall be a simultaneous transaction, and any maneuver, device, or method of extending credit is expressly prohibited. (2000 Code, § 8-220)

8-220. No adjustments for shortages, etc., to be made by wholesalers except at time of delivery. In order accurately to determine the tax to be paid, no wholesaler shall make any reduction or adjustment for shortages or broken bottles, including chips and flats, except at the time of sale and delivery. All beer shall be inspected and accepted by the retailer or any other person at the time of delivery and no adjustment or refund for merchandise damage, breakage, or shortage shall be made by any wholesaler subsequent to the time of delivery. (2000 Code, § 8-221)

¹Municipal code reference

Zoning ordinance: title 14, chapters 2--8.

8-221. No gifts or price reductions by wholesalers. In order to determine the exact amount of tax and to facilitate the collection thereof, no wholesaler shall make any gift of beer or any other type of gift to any retailer, nor shall any deal be made with the retailer or any person whereby the wholesale price of beer shall be reduced below the list price as an inducement to said retailer or any other person to make larger purchases. (2000 Code, § 8-222)

8-222. All sales to be within licensed premises. It shall be unlawful for any on-premise permittee to sell beer anywhere except within the confines of the property boundary used for the sale or purchase of beer. It shall be unlawful for any off-premise permittee to sell beer anywhere except within the confines of the building used for the sale or purchase of beer. Drive-in windows are expressly prohibited. (2000 Code, § 8-223)

8-223. Violations and penalty. (1) Responsible vendor. A permit holder who is a responsible vendor in good standing with the Tennessee Alcoholic Beverage Commission shall only be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sale of beer to a minor, who is defined as anyone less than twenty-one (21) years of age, or for any other violation of this chapter.

Permanent revocation of a beer permit may only be applied when the permit holder has at least two (2) violations within a twelve (12) month period.

(2) All other vendors. A permit holder violating any provisions of this chapter shall be cited to the beverage board for a suspension or revocation of the permit. The beverage board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of permitting any sale to an individual under the legal age to purchase intoxicating beverages; or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the permit 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. The payment of a civil penalty shall not be deemed as a waiver of the permit holder's right to seek review by statutory writ of certiorari. (2000 Code, § 8-224)