TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER
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2. BEER.
3. CONSUMPTION OF ALCOHOL BY MEANS OF "BROWN BAGGING."

CHAPTER 1

RED BANK LIQUOR REGULATIONS

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8-101. Title. This chapter shall be known as the Red Bank Liquor Ordinance. (1975 Code, § 2-101)

8-102. Selling and distributing generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages whether at retail, wholesale or for on premises consumption within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57, and in accordance with the rules and regulations promulgated thereunder and as provided under the chapter. (1975 Code, § 2-102, as replaced by Ord. #03-877, July 2003)

8-103. Definitions. The following terms whenever used in this chapter shall have the meanings hereinafter ascribed:

1) "Alcoholic beverages." All beverages having an alcoholic content of more than five per cent (5%) by weight, as further defined by Pub. Acts 1939, ch. 49 and amendments thereto.

2) "License." When appearing alone, refers to the city privilege license issued by the City of Red Bank.

3) "State license." Refers to the state privilege license.

4) "Wholesalers." Any person, firm, or corporation having a place of business within the corporate limits of Red Bank, for the sale at wholesale of alcoholic beverages, and holding a state license and city license authorizing such sale.

5) "Retailer." Any person having a place of business within the corporate limits of Red Bank for the retail sale of alcoholic beverages and who holds a state license and city license authorizing such sale.
(6) "Board of commissioners" or "board." The board of commissioners of the City of Red Bank.

(7) "City manager." The City Manager of Red Bank.

(8) "Character certificate." The certificate of good moral character required by the provisions of Tennessee Code Annotated, § 57-3-208.

(9) "Permit." The permit issued by the city evidencing the payment of the inspection and enforcement fee.

(10) "Minor." Any person under eighteen (18) years of age.


8-104. Manufacture, storage, etc., lawful. It shall be lawful to manufacture, store, transport, sell, possess, distribute, and receive alcoholic beverages in the city, subject to the provisions of this chapter, particularly § 8-140 hereof. (1975 Code, § 2-104)

8-105. Privilege licenses required. Before any person shall engage in the manufacture or sale, at wholesale or retail, of alcoholic beverages or in the manufacture or vinting of wine, in this city, a privilege tax shall be paid to the city recorder and a license secured as follows:

(1) Manufacturer's, distributor's, or rectifier's license, per annum .............................................. $ 1 , 0 0 0 . 0 0

Such license shall permit the holder to manufacture, distill, vent, and rectify alcoholic beverages.

(2) Wholesale liquor dealer's license, per annum ........ 5 0 0 . 0 0

Such license shall permit the holder to sell at wholesale alcoholic, spirituous beverages in sealed packages only, to state and city licensed retainers only.

(3) Retail liquor dealer's license, per annum ............. 2 5 0 . 0 0

Such license shall permit the holder to sell at retail, to consumers, alcoholic beverages in sealed packages only.

(4) Winery license, per annum ........................ 2 5 0 . 0 0

Such license shall permit the holder to manufacture, but not to rectify or fortify, alcoholic vinous beverages unless the holder thereof is also a distiller or rectifier and holds a manufacturer's license. (1975 Code, § 2-105)

8-106. Applicants for certain licenses to be citizens. All applicants for manufacturers', distillers', or rectifiers' licenses or for winery licenses shall be citizens of the United States. If the applicant is a corporation, no license shall be issued unless all its stockholders are citizens of the United States. (1975 Code, § 2-106)

8-107. Application for certificate for license. (1) Before any character certificate, as required by the provisions of Tennessee Code
Annotated, § 57-3-208, shall be signed by the mayor or any member of the board of commissioners, an application in writing shall be filed with the board, on a form to be provided by the city, giving the following information:

(a) Name, age, and address of the applicant.
(b) Number of years residence in the city.
(c) Occupation or business and length of time engaged in such occupation or business.
(d) Whether or not the applicant has been convicted of the violation of any state or federal law or of the violation of this code or any city ordinance.
(e) If employed, the name and address of the employer.
(f) If in business, the kind of business and location thereof.
(g) The location of the proposed store for the sale of alcoholic beverages.
(h) The name and address of the owner of the premises and the amount of rent to be paid.
(i) The amount of money invested or to be invested; the source of the funds to be used, and, if borrowed, the name of the person from whom borrowed; the name of the bank with whom applicant does business; and the name of any person who is aiding the venture financially, either by loan or endorsement.
(j) The name of any person who will be interested, directly or indirectly, in the business with the applicant.
(k) If the applicant is a partnership, the name, age, and address of each partner, and his occupation, business, or employer.
(l) Such other information as the city may request.

(2) The application required herein shall be verified by the oath of the applicant, and, in the event the applicant is a partnership, shall be verified by the oath of each partner.

(3) Each application shall be accompanied by a bond in favor of the city, executed by a surety company duly authorized and qualified to do business in Tennessee, in the amount of $5,000.00 in the case of wholesalers, or $1,000.00 in the case of retailers. Said bonds shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal by any court of competent jurisdiction. (1975 Code, § 2-107)

8-108. Applicant to agree to comply with laws. The applicant for a certificate for a license shall agree to comply with the state and federal laws and ordinances of the city and rules and regulations of the state commission with reference to the sale of alcoholic beverages. (1975 Code, § 2-108)

8-109. Appearance of applicant before board of commissioners. Each applicant for a certificate for a license shall be required to appear in person before the board of commissioners for such examination as may be
desired by the board. He shall furnish such information as may be required and 
shall agree to the examination of his bank account, books, records, or other 
accounts by any member of the board or by any person designated by the board 
to make such investigation and examination. (1975 Code, § 2-109)

8-110. **Investigation of applicant.** At the first regular meeting of the 
board of commissioners following receipt of such an application by the city, the 
board shall refer the application to the city manager for investigation thereof. 
The city manager shall make, or cause to be made, an investigation of the 
applicant to determine whether or not he is a person of good moral character 
and entitled to a certificate therefor and also of the proposed location, to 
determine whether or not it meets the requirements of this chapter. (1975 Code, 
§ 2-110)

8-111. **Report on investigation.** At the first regular meeting of the 
board of commissioners occurring more than thirty (30) days following the 
submission of the application to the board of commissioners, the city manager 
shall make his report on his investigation to the board of commissioners. Said 
report shall be in writing and a copy thereof shall be attached to the application. 
(1975 Code, § 2-111)

8-112. **Action on application.** At said meeting, after receiving the 
report of the city manager, the board of commissioners shall act upon said 
application and its action shall be noted thereon and such application shall be 
filed with the city recorder. (1975 Code, § 2-112)

8-113. **Issuance of certificate to a corporation.** No certificate for the 
issuance of a license to a corporation shall be approved unless such corporation 
complies with the provisions of Tennessee Code Annotated, § 57-3-203, as 
heretofore or hereafter amended. (1975 Code, § 2-113)

8-114. **Residence required for certificate for wholesale or retail 
license.** The applicant for a certificate for either a wholesale or a retail license 
shall have been a bona fide resident of this county for not less than two (2) 
years, and of this city at the time his application is filed. (1975 Code, § 2-114)

8-115. **Applicant to hold state license, etc.** The recorder shall not 
issue a license under this chapter until the applicant has received a state license 
from the state commission and has been issued a character certificate signed by 
the mayor or a majority of the members of the board of commissioners. (1975 
Code, § 2-115)

8-116. **When license not to be issued.** No license for the manufacture 
or sale at wholesale or retail of alcoholic beverages, or for the manufacture or
vinting of wine, and no character certificate shall be issued to any person who has been convicted of any offense under the laws of the United States, or any of them, or of the ordinances of this city, excluding, however, traffic violations. (1975 Code, § 2-116)

8-117. Restrictions on local liquor retailer's licenses. (1) Maximum number of licenses. No more than three (3) local liquor retailer’s licenses for the sale of alcoholic beverages at liquor stores shall be issued under this chapter representing no more than three liquor stores in the city. There shall be no numerical limit on licenses for on-premises consumption which otherwise conform to this chapter and to state law.

(2) Term renewal. Each license shall expire on December 31st of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) Display. A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee’s liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) Transfer. A licensee or co-licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one location to another location without the express permission of city council.

(5) Fees. A license fee of $1000.00 is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall issue. (1975 Code, § 2-117, as replaced by Ord. #03-877, July 2003)

8-118. Licenses not assignable or transferable. The holder of a privilege license issued under this chapter shall not sell, assign, or transfer such license for the calendar year in which the same is issued. (1975 Code, § 2-118)

8-119. Permit to be secured by licensee. Any person obtaining a privilege license under this chapter shall, at the time he obtains such license, obtain a permit from the city recorder and pay the inspection and enforcement fee provided for herein. Such permit shall not be transferable and shall be renewed annually. (1975 Code, § 2-119)

8-120. Retail inspection and enforcement fee levied. Each retail dealer shall pay an inspection and enforcement fee of five per cent (5%) on the gross purchase price of alcoholic beverages purchased by him for resale. (1975 Code, § 2-120)
8-121. **Same--collection.** The inspection and enforcement fee levied by the preceding section shall be collected by the wholesale dealer selling to retailers in the city. It shall be based on the wholesale price charged by the wholesale dealer to the retail dealer. The wholesale dealer shall give a copy of the invoice of each sale of alcoholic beverages to the retail dealer showing the price charged for such beverages, together with the inspection and enforcement fee collected from such retailer. The wholesale dealer and retail dealer shall keep on file a copy of such invoice, which shall be subject to inspection by any police officer or inspector employed by the city for the enforcement of the laws and ordinances regulating the sale of alcoholic beverages. The wholesale dealer shall pay the amount of inspection and enforcement fees collected each month to the city recorder on or before the tenth (10th) day of the succeeding month, together with a statement showing the name of each retailer paying such inspection and enforcement fee, and the amount paid by each retailer. (1975 Code, § 2-121)

8-122. **Wholesale inspection and enforcement fee.** Each wholesaler shall pay an annual inspection and enforcement fee of two hundred and fifty dollars ($250.00). (1975 Code, § 2-122)

8-123. **Powers and duties of inspectors.** The inspectors employed by the city shall examine the records of wholesale and retail dealers in the city and shall enforce in the city the state laws and city ordinances and rules and regulations promulgated by the state commission with reference to the sale, possession, storage, delivery, and distribution of alcoholic beverages. Such inspectors shall have the powers and authority of police officers. (1975 Code, § 2-123)

8-124. **Violations to be reported; request for revocation of license.** Each inspector shall report to the city manager the violation by any wholesale or retail dealer of any law, ordinance, rule, or regulation relating to the possession, sale, or delivery of alcoholic beverages. When the city manager receives evidence of such violation by any wholesale or retail dealer, he shall certify such facts to the mayor or board of commissioners, and the mayor or a majority of the board shall in turn certify such facts to the state commission with the request that the license of such violator be revoked. (1975 Code, § 2-124)

8-125. **Effect of revocation of license.** When a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the premises operated under the former license until after the expiration of one (1) year from the effective date of such revocation. (1975 Code, § 2-125)
8-126. **Only one establishment to be operated by wholesaler or retailer.** No retailer or wholesaler shall operate, directly or indirectly, or be interested in, more than one place of business for the sale of alcoholic beverages in the city. No person holding a retail or wholesale license issued by any other municipality in this county shall operate, either directly or indirectly, a wholesale or retail establishment in this city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest, or otherwise. (1975 Code, § 2-126)

8-127. **Location for liquor store or establishment holding a license for on-premises consumption.** (1) No license or permit for a retail package store shall be granted which authorizes the sale, storage, or manufacture or, in the case of a license primarily for on-premises consumption of beverages within three hundred (300) feet of any school, church or day care center. Such measurement shall be in a straight line from center of main entrance to center of main entrance.

   (2) No premises license or permit for either a retail package store or a license permitting on-premises consumption shall be located in other than a Zone C-Commercial Zone.

   (3) No license or permit for on-premise consumption on package or retail sales shall be granted which authorizes the sale, storage or manufacture of beer or alcoholic beverages within five hundred (500) feet of any adult-oriented establishment (as defined elsewhere in this code).

   (4) In its discretion the board may require any applicant or opponent to the application, at his or her own expense, to provide the survey of a Tennessee Registered Land Surveyor to the board for its use if the distance measurement referenced above shall be reasonably in dispute. (1975 Code, § 2-127, as replaced by Ord. #03-877, July 2003)

8-128. **Retail establishments—minimum requirements.** No retail store shall be located upon any premises except in accordance with the following minimum requirements:

   (1) Said stores shall be located on the ground floor only. If the premises contain more than one story, there shall be no means of entrance or access from the retail store to any upper story.

   (2) Each such store shall be of fire-proof brick construction.

   (3) Each such store shall have only one entrance, and that facing, or opening onto, one of the streets listed in the preceding section. Windows in such stores shall be permitted only in the front wall thereof, facing one of the streets designated in said section.

   (4) Only one sign advertising the business, or the products sold therein, shall be permitted on the exterior of such building. Such sign shall be flush with the front exterior wall of the building; may extend no more than six
(6) inches from the exterior wall to which it is attached; its height may not exceed twelve (12) inches; its length may not exceed one-half (½) of the width of the building. Said sign may be illuminated, but neon signs are prohibited, whether within or without the building. Non-illuminated signs painted upon the door or windows shall be permitted in addition to the sign hereby authorized.

(5) No sign shall be permitted advertising the business, or its products, at any location in the city except as specified in the preceding sub-section. (1975 Code, § 2-128)

8-129. Wholesale stores—minimum requirements. No wholesale store shall be located anywhere on premises in the city except in compliance with the following minimum requirements:

1. It shall be located on the ground floor of said premises. Should the premises contain more than one story, there shall be no entrance or means of access to any upper story from said premises.

2. It shall have only one main entrance, and that facing one of the streets designated in § 8-127 of this code, provided, however, that wholesale stores located on a railroad spur track may receive deliveries from railroad cars through back doors adjacent to such track.

3. It shall be of fire-proof brick construction.

4. Only one sign advertising the business, or the products sold herein, shall be permitted on the exterior of such building. Such sign shall be flush with the front exterior wall of the building; may extend no more than six (6) inches from the exterior wall to which it is attached; its height may not exceed twelve (12) inches; its length may not exceed one-half (½) of the width of the building. Said sign may be illuminated, but neon signs are prohibited, whether within or without the building. Non-illuminated signs painted upon the door or windows shall be permitted in addition to the sign hereby authorized.

5. No sign shall be permitted advertising the business, or its products, at any location in the city except as specified in the preceding sub-section. (1975 Code, § 2-129)

8-130. Retail and on-premises consumption license holders. In the operation of any retail liquor store, the following regulations shall be strictly observed:

1. No beverages shall be sold for consumption on the premises.

2. No purchase of alcoholic beverages shall be made except from wholesalers.

3. No alcoholic beverages shall be sold from any place except the premises named in the license.

4. No alcoholic beverages shall be taken by any retailer and/or on-premises consumption license holder to his home or any other place for the purpose of sale or delivery.
(5) No retailer and/or on-premises consumption license holder shall sell alcoholic beverages in any quantity to a known bootlegger or to one known to be the agent or representative of a bootlegger, or to one he has reason to believe will engage in the illegal sale or distribution of alcoholic beverages.

(6) No retailer and/or on-premises consumption license holder shall sell any alcoholic beverages to a minor.

(7) No retailer and/or on-premises consumption license holder shall sell any alcoholic beverages to any person who is intoxicated or who is accompanied by a person who is intoxicated.

(8) No retailer and/or on-premises consumption license holder shall make deliveries of alcoholic beverages to any customer except upon and within the immediate premises of the retail establishment.

(9) No retailer and/or on-premises consumption license holder shall store or offer for sale at his salesroom any article or commodity whatever except alcoholic beverages regulated under the provisions of this chapter.

(10) No retailer shall open before 9:00 A.M. or after 10:00 P.M.

(11) No retailer shall be open on any Sunday, Christmas day, Thanksgiving day, New Years day, Fourth of July, Labor day, or any election day, whether general, primary, special, or municipal. If any holiday designated above falls on Sunday, retail establishments shall be closed the following day.

(12) In the event of an emergency, all retail establishments shall be closed upon order of the mayor, city manager, or chief of police.

(13) No radio, pinball machine, slot machine or other device which tends to cause persons to congregate in such place shall be permitted.

(14) With respect to retail stores only no seating facilities shall be provided for persons other than employees.

(15) No minor shall be employed therein.

(16) No minor shall be permitted in the place of business.

(17) No person shall be employed unless a citizen of the United States.

(18) [Deleted.]

(19) No person shall be employed who has been convicted of an offense under the laws of the United States, or any of them, or any ordinance of this city, with the exception of traffic violations, or who has had a license, authorizing or permitting the sale, possession, transportation, storage, manufacture, or handling of alcoholic beverages, revoked.

(20) With respect to retail stores only no alcoholic beverages in unsealed bottles or other containers shall be kept, or permitted to be kept on the premises.

(21) Retailers shall keep a complete record of all alcoholic beverages purchased and received. The delivery invoice may constitute such record. It shall show the name of the wholesaler from whom purchase was made, and the date of such purchase delivery. These records shall be kept until they have been inspected and stamped by an inspector of the city. Each retailer and/or on-premises consumption license holder shall make his records available to such
inspector upon request. (1975 Code, § 2-130, as amended by Ord. #03-877, July 2003)

8-131. Wholesalers—operational regulations. All wholesalers selling to retail liquor dealers shall comply with the following regulations.

(1) No alcoholic beverages shall be sold except to retailers.

(2) No alcoholic beverages shall be sold or delivered to any retailer during the time his license is suspended. A complete record of all sales and deliveries of alcoholic beverages to local retailers shall be kept.

(3) All wholesale dealers shall, each day except Sunday, before 10:00 A.M., file with the city recorder a record of all sales and deliveries made by him in the city on the previous day.

(4) The records of wholesale dealers shall be subject to in section at any time by police officers and inspectors. Such wholesalers shall furnish the inspectors with such information as to contemplated deliveries and days of delivery and such other information with reference thereto as may be requested by the inspector.

(5) All deliveries by wholesale dealers to retail dealers in the city shall be made between the hours of 8:00 A.M. and 5:00 P.M.

(6) No wholesaler shall employ a canvasser or solicitor for the purpose of receiving an order from any consumer for any alcoholic beverages at his residence, place of business, or any other place, nor shall any such wholesaler receive or accept any order solicited by another, provided licensed wholesalers may solicit orders from any licensed retailer at the licensed premises of such retailer.

(7) Complete records of all purchases and receipts of alcoholic beverages received by him, as well as a complete record of all sales and deliveries of alcoholic beverages made by him, shall be kept.

(8) No person who has been convicted of any offense under the laws of the United States, or any of them, or of any ordinance of this city, except traffic violations, shall be employed.

(9) No minor shall be employed, nor shall any such person be permitted in the place of business.

(10) No person shall be employed except citizens of the United States.

(11) No alcoholic beverages in unsealed bottles or other containers shall be kept upon the premises. (1975 Code, § 2-131)

8-132. Advertising signs prohibited. No advertising sign or displays advertising alcoholic beverages shall be permitted in the city except as authorized by § 8-128(5) and § 8-129(5). (1975 Code, § 2-132)

8-133. Cocktail bars prohibited; exceptions. (1) Except in conjunction with and as a part of a restaurant premises where meals are served and available to the public it shall be unlawful for any person to maintain a
cocktail bar in the city or to sell or serve ice, soda, or other mixtures for the purpose of mixing cocktails or highballs or any other intoxicating drinks to be consumed where such ice, soda, or other mixtures are sold or served. The term "cocktail bar," as used in this section, shall mean any public place where ice, soda, or other ingredients are sold or served by the owner or operator the mixing of alcoholic beverage drinks.

(2) In the context of a valid and contemporaneously issued "special events (beer) permit" as otherwise authorized by the provisions of § 8-209(6) of the Red Bank City Code and, expressly provided that the Tennessee Alcoholic Beverage Commission shall have issued a special occasion license for the same location, place, time and organization, person or entity as the permit holder of the "special events (beer) permit" above referenced, it shall not be a violation of this section for such temporary licensee/permittee to distribute or provide alcoholic beverages or wine for on-premises consumption as allowable under the applicable state permit, and if and only if

(a) All conditions of the Red Bank City Code § 8-209(6) "special events (beer) permit" are met and continually observed;
(b) Alcoholic beverages and/or wine are provided free of charge and not sold or not distributed subject to any financial exchange or "donation" or other device;
(c) Distribution and consumption are confined to the permitted, designated and marked physical area premises as specified in the "special events (beer) permit;"
(d) All conditions and requirements of the beer board and/or chief of police as relates to the valid contemporaneously issued and applicable "special events (beer) permit" are satisfied, followed and adhered to;
(e) The time(s) and location(s) of the premises specified in the "special events (beer) permit" shall be the only times/locations/premises where distribution and/or consumption may occur; and
(f) All otherwise applicable laws, ordinances, rules and regulations with respect to service and consumption of alcoholic beverages and wine are observed and adhered to. (1975 Code, § 2-133, amended by Ord. #03-877, July 2003, and replaced by Ord. #14-1009, Aug. 2014)

8-134. Sales by manufacturers and distillers. No manufacturer or distiller shall sell alcoholic beverages in the city except to wholesalers, or to other manufacturers, distillers, rectifiers, or winery operators. (1975 Code, § 2-134)

8-135. Transportation of quantities in excess of three (3) gallons. It shall be unlawful, except as permitted by chapter Tennessee Code Annotated, title 57, as amended, for any person to transport alcoholic beverages within,
into, through, or from the city in quantities in excess of three (3) gallons unless such person has on file with the Tennessee Alcoholic Beverage Commission a bond in the amount of one thousand dollars ($1,000) as required by the provisions of the acts cited above; provided, that the provisions of this section shall not apply to any person authorized to sell alcoholic beverages at wholesale when such alcoholic beverages are being transported in a vehicle belonging to the licensee, nor to common carriers complying with the provisions of the Acts cited above. (1975 Code, § 2-135)

8-136. **Unstamped alcoholic beverages—sale and purchase.** No alcoholic beverage shall be sold or offered for sale or distributed by gift or otherwise in the city unless a stamp evidencing payment of the state tax on such alcoholic beverages is in place on its container. No retailer shall purchase or have in his possession any alcoholic beverages except in retail containers to which such stamps have been properly affixed, except such purchase as may be made under state law, in which event stamps shall be affixed to such containers at the time of purchase. The possession of unstamped alcoholic beverages, except as otherwise provided herein, shall be deemed prima facie evidence that such beverage is possessed with intent to sell or distribute the same contrary to the provisions of this chapter. (1975 Code, § 2-136)

8-137. **Same—transportation and possession.** It shall be unlawful for any person to transport or possess alcoholic beverages upon which the state revenue stamp has not been placed; provided, that this provision shall not apply to any wholesaler who has had such beverages less than seventy-two hours or is transporting the same from a legitimate manufacturer, as provided by state law; and provided further, that the provisions hereof shall not apply to sheriffs transporting alcoholic beverages. (1975 Code, § 2-137)

8-138. **Disposition of alcoholic beverages seized by police, etc.** Alcoholic beverages seized by the police, liquor inspectors, or other city employees, on which the federal tax has been paid, shall be turned over to the sheriff of Hamilton County, Tennessee, to be disposed of under an order of court, as provided by Pub. Acts 1947, ch. 127 (Tennessee Code Annotated, §§ 57-9-114 to 57-9-119). The chief of police shall make a complete inventory of the alcoholic beverages turned over to the sheriff and shall take a receipt from the sheriff at the time of delivery for all alcoholic beverages turned over to him. All money received from the sale of such alcoholic beverages shall be turned into the general fund of the city. Licensed retail dealers in the city may purchase alcoholic beverages sold by the sheriff under such an order of court. (1975 Code, § 2-138)
8-139. **Drinking in public or prohibited places.** It shall be unlawful for any person publicly to drink alcoholic beverages on any street or sidewalk, or in any park, theater, auditorium, stadium, baseball park, or in any public gathering, or in any place where the owner or operator of such place is prohibited from permitting the drinking of alcoholic beverages. (1975 Code, § 2-139)

8-140. **Provisions voidable—when.** Should the charter of this city be held by the supreme court of this state to prohibit the sale of alcoholic beverages in this city, then all the foregoing provisions of this chapter shall be void, otherwise to be and remain in full force and effect. (1975 Code, § 2-140)

8-141. **Violations—punishment.** The violation of any of the provisions of this chapter shall be cause for revoking any license held by the offender. Any violation shall likewise be punishable under the general penalty clause for this municipal code of ordinances. (1975 Code, § 2-141)

8-142. **Confiscation and sale of contraband liquor.** All alcoholic beverages of more than five per cent (5%) alcohol, whether stamped or unstamped, which are sold or stored for the purpose of sale by a person who does not hold a state liquor license shall be contraband and subject to seizure and sale as provided by state law. (1975 Code, § 2-142)

8-143. **Confiscation and sale of vehicles used for transporting or storing unstamped liquor.** Any vehicle, aircraft, or boat not a common carrier which may be used for transportation or storage for the purpose of distribution, gift, or sale of unstamped alcoholic beverages of more than five per cent (5%) alcohol shall be subject to confiscation and sale in the manner prescribed by the state law. Should any unstamped alcoholic beverages be found in any vehicle, aircraft, or boat, same shall be prima facie evidence that it was there for gift, sale, or distribution. (1975 Code, § 2-143)

8-144. **Proceeds from sale of confiscated liquor and vehicles.** The proceeds to the city of all seizures, confiscations, and sales made hereunder shall be paid into the general fund of the city and expended for general municipal purposes. (1975 Code, § 2-144)

8-145. **Red Bank opts out of any extension of hours by alcoholic beverage commission.** The City of Red Bank, pursuant to Tennessee Code Annotated, § 57-4-203(d)(5) opts out of any extension of hours by the Alcoholic

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1Municipal code reference
   Drinking alcoholic beverages, etc., on streets, etc.: § 11-101.
Beverage Commission of the State of Tennessee. (as added by Ord. #03-877, July 2003)
CHAPTER 2

BEER

SECTION
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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).
8-232. License for off-premises consumption prohibited in non-grocery establishments.
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8-236. Privilege tax for sale of beer.
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8-239. Data required from permit applicants.
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8-201. **Beer—definition—business subject to regulation.** (1) The word "beer", whenever used in this chapter, shall include beer, ale, malt liquor, light wine, and any and all other alcoholic beverages of an alcoholic content of not more than 5% weight.

(2) The transportation, storage, sale, distribution, possession, and/or manufacture of beer within the corporate limits of the City of Red Bank, shall be subject to the regulations hereinafter set out, and provided. (1975 Code, § 2-201)

8-202. **Beer board designated.** The city board of commissioners is hereby designated as the beer board of the City of Red Bank. (1975 Code, § 2-202)

8-203. **Quorum and authority to act.** At all meetings of the beer board a majority shall constitute a quorum and the board shall act only by vote of a majority of all its members. (1975 Code, § 2-203)

8-204. **Chairman, meetings, and records.** The mayor shall serve as chairman of the beer board. All business of the board shall be conducted at the regular meetings of the board of commissioners, except that called meetings may be held to consider matters related to violations as hereinafter provided. The records of the beer board shall be kept as part of the records of the board of commissioners. (1975 Code, § 2-204)

8-205. **Investigation of applicants.** The board, through employees of the city designated by the city manager, shall make an investigation of each applicant for a permit to determine the character of the applicant, whether or not the applicant is a suitable person to be issued a permit, and whether the proposed location is a suitable place for the sale of beer, or other beverages of like alcoholic content. It shall be the duty of the employees of the city to cooperate with the beer board in furnishing whatever information any of them
have with respect to applicants and their prospective locations. (1975 Code, § 2-205)

8-206. **Investigations of violations.** When any holder of a permit and license for the sale of beer is charged with the violation of any of the laws of the State of Tennessee, or ordinances of the City of Red Bank or any other action in the conduct of the business which is not within the spirit of said laws and ordinances, it shall be the duty of the beer board to make an investigation. The beer board is hereby given the power to subpoena witnesses to appear before it in conducting such investigations, and the chairman or acting chairman is given the power to administer oaths. The beer board shall act upon the report of the investigation in accordance with § 8-220 of this chapter. (1975 Code, § 2-206)

8-207. **Report of violations.** It shall be the duty of the employees of the city to report to the beer board any violation of the laws of the State of Tennessee, ordinances, rules and regulations of the city by any permittee and licensee. (1975 Code, § 2-207)

8-208. **Manufacture, distribution, etc., lawful.** It shall be lawful to manufacture, distribute, sell, transport, store and possess beer of alcoholic content of not more than five per cent by weight and other beverages of like alcoholic content in the city, subject to all the regulations, limitations and restrictions provided by [Tennessee Code Annotated], §§ 57-5-201 through 57-5-212, as amended and subject to the provisions of this chapter of the code. (1975 Code, § 2-208)

8-209. **Permit and license required, classification of licenses.** No person shall engage in the business of manufacturing, distributing, selling, transporting, storing or possessing of beer and other beverages of like alcoholic content without a permit and license. Such permit and license shall expire one year after its issuance, and shall be obtained and renewed upon application as provided herein. Licenses authorized under this chapter for the retail sale of beer shall be of three types:

1. **Carry-out.** A carry-out license authorizes the sale of beer for consumption elsewhere than on the premises where sold. A carry-out license may be obtained by and issued to a licensed manufacturer for the retail sales of such manufacturer's beer(s) as are brewed on the premises at the location at which the manufacturer's license is held.

2. **Restaurant.** A restaurant license authorizes the sale of beer for on-premises consumption in an establishment where 50% or more of the gross receipts of such establishment is derived from the sale of food, or items other than beer.
(3) **Tavern.** A tavern license authorizes the sale and distribution of beer in an establishment where 50% or more of the gross receipts of such establishment is derived from the sale of beer.

The license thus obtained shall remain in full force and effect for the period of the license; or until its revocation by the board in the manner hereinafter prescribed.

(4) **Craft brewer's sampling license.** A craft brewer's sampling license and permit may issue to a licensed manufacturer of beer to permit samples of the beer(s) brewed on the licensed premises to be consumed on premises for tasting as part of a marketing effort for such beer(s) subject to the following conditions and restrictions:

   (a) The consumer/person to whom the sample is provided must be of legal age to purchase beer;
   
   (b) Samples are limited to a maximum of ten (10) ounces per person per day;
   
   (c) Samples shall be provided inside the building premises and/or in an enclosed courtyard setting;
   
   (d) All other terms, provisions and conditions of title 8, chapter 2, *et seq.* that are not expressly contradictory to the terms hereof and any statutes, rules or regulations imposed or enacted by the State of Tennessee and any of its applicable subdivisions shall remain in full force and effect;
   
   (e) No "free" samples shall be given except in the circumstance of a credit against the price of on-site brewed product actually contemporaneously purchased, by the permit holder.

(5) **Growler sales permitted under certain circumstances.** (a) Any permittee holding either a restaurant, tavern or craft brewer's sampling license may also engage in the sale of beer, as otherwise defined herein, for off-premises consumption only in the context of and with the utilization of a carry-out container commonly referred to as a "growler," defined for these purposes as a glass, stainless steel, or ceramic reusable container with a screw on cap or a hinged porcelain gasket cap the size of which containers shall not be less than thirty-two U.S. fluid ounces (32 oz.) and the size of which shall not exceed sixty-four U.S. fluid ounces (64 oz.). Beer sold in growler(s) may not be consumed on the premises where sold.

   (b) Vendors shall utilize on-premises sanitized growlers, as defined herein, with a sealed cover or plastic shrink wrapped cover over the screw on cap or hinged gasket porcelain stopper for all growler sales. Refilling a customer's growler without the growler being first sterilized and sanitized by the licensee is not permitted.

   (c) Any licensee possessing either a restaurant, tavern or craft brewer's sampling license on October 7, 2014, may apply for a growler permit endorsement at city hall without charge. For all future licensees
for restaurant, tavern or craft brewer's sampling licenses, permission to engage in growler sales shall be an integrated part of such restaurant, tavern or craft brewer's sampling license(s).

(6) Special event permits. (a) (i) The beer board is authorized to issue special event permits to bona fide charitable, non-profit or political organizations or to private parties, corporations or LLCs for private, occasional or social events for special events, provided that such special event permits shall be subject to all other requirements of this chapter and of the Red Bank City Code governing the sale of beer. The beer board is authorized, but is not required, to include provision in any such permit permitting limited outside/out of door sales and consumption, subject to reasonable time, space, and public security requirements as the beer board may impose in such special event permit from time to time and based on recommendation of the city manager and the Red Bank Chief of Police or his or their respective designees. Allowable places may include City of Red Bank parks and/or other facilities if space is reserved therein under then existing practices and policies of the City of Red Bank with respect to such reservations.

(ii) No private party, corporation or LLC that is not a bona fide charitable, or non-profit organization as defined under this section, shall engage in the sale of beer with a special event permit but shall be eligible to use such permit to provide beer for on site social consumption free of charge to its private event invitees and provide beer as a part of its special or occasional private social event(s).

(b) The special event beer permit application fee is set at one hundred dollars ($100.00), which fee is non-refundable. In each such application, each permit applicant shall specify measures to be taken by applicant/permittee to prohibit purchase or consumption by under age individuals and the beer board shall be specifically entitled to impose conditions as the contemplated special event may merit from time to time with respect to the issuance of the special event permit with respect thereto. Such measures shall always include at least

(i) A visible physical separation barrier outside of which no beer may not be distributed, consumed or sold, and

(ii) Each person to whom beer is provided shall wear a visible badge(s), bracelets, pins, etc. which signify that the wearer has been prescreened by the permit holder as to the bearer's age.

(c) The special event permit shall not be issued for longer than one forty-eight (48) hour period unless otherwise specified, subject to the limitations on the hours of sale imposed by law. The application for the special event permit shall state whether the applicant is a charitable,
non-profit or political organization or a private party, corporation or LLC holding a special event, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose of the request of the license.

(d) For purposes of this section:

(i) Bona fide charitable or non-profit organization means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code and/or as a non-profit Tennessee corporation in good standing with the Secretary of State of Tennessee as of the date of the application and issuance of the permit.

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

(e) The beer board may impose such additional requirements and conditions upon the special events permittee and permit under such as it shall deem necessary for the health, safety and security of the citizens of the City of Red Bank. No person, organization, political organization, private party, corporation or LLC shall be eligible to receive more than two (2) special event permits in any running twelve (12) month period.

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

(g) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Red Bank will result in a denial of a special event beer permit for the sale or distribution of beer for a period of one (1) year as well as the imposition of any and all other applicable fines and/or penalties.

(h) Nothing contained herein shall be construed so as to limit the imposition of any criminal penalties which might otherwise apply by reason of any violation of any ordinance of the City of Red Bank and/or laws of the State of Tennessee, except that distribution, sale or consumption in compliance with the terms and subject to the limitations of any such permit as herein provided and within the defined and confined and designated physical space shall not be grounds for citation or prosecution by the City of Red Bank for violation of any open container or public consumption ordinance or statute. (1975 Code, § 2-209, as amended by Ord. #12-972, May 2012, Ord. #14-1003, May 2014, Ord. #14-1008, Aug. 2014, and Ord. #14-1012, Oct. 2014)
8-210. **Application for permit to be filed and payment of fee made.** Before any permit is issued, the applicant shall pay to the city an application fee of two hundred fifty dollars ($250.00) and an applicant shall file an application in writing, on a form provided by the city, with the city manager, who shall submit each application to the beer board at its next meeting after receipt of such application. The beer board shall investigate the applicant in accordance with § 8-205 of this chapter, shall obtain a report on the applicant from the chief of police and shall obtain from the applicant those items of information required by Tennessee Code Annotated § 57-5-104. (1975 Code, § 2-210)

8-211. **Approval or rejection of application.** The beer board shall hold a public hearing on the application and shall consider the report of each application filed, shall grant or refuse the permit, according to its best judgement, under all the facts and circumstances, and shall grant or deny the application at its meeting. The action of the beer board in granting or refusing a license and permit shall be final. (1975 Code, § 2-211)

8-212. **Issuance of licenses.** The city manager shall issue an appropriate license to the permittee upon the presentation of an approved application as determined by the beer board and the payment of all requisite privilege taxes and/or license fees. (1975 Code, § 2-212)

8-213. **Location of premises to be designated.** The location of the premises at which the business of the licensee will be conducted shall be designated in his license and in the application therefor. (1975 Code, § 2-213)

8-214. **When permit to be refused, locations, distance requirements.** (1) No permit for a license for sale distributions or storage shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches or other places of public assembly, or otherwise interfere with the public health, safety and morals. The judgement of the beer board on questions arising under this section shall be final, except as it may be subject to review at law.

(2) No permit required by this provision shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other public places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including but not limited to the zoning laws.

(3) No license or permit for off premises consumption shall be granted which authorizes the sale, storage, or manufacture of such beer or beverages within two hundred (200) feet of any school, church or day care center. No license or permit for on-premises consumption shall be granted which authorizes the sale, storage, or manufacture of such beer or beverages within three
hundred (300) feet of any school, church or day care center. Such measurement shall be from center of main entrance to center of main entrance. Provided, however, that this distance proximity prohibition shall not apply to any location that has heretofore been issued a valid permit to sell, store or manufacture beer or other beverages of like alcoholic content under previous distance proximity restrictions, but if any such permittee shall cease or discontinue the sale of beer for one hundred twenty (120) consecutive days, then the distance proximity prohibition contained in this section shall thereafter apply to such locations.

No license or permit for on or off premises consumption shall be granted which authorizes the sale, storage or manufacture of such beer or alcoholic beverages within five hundred (500) feet of any adult-oriented establishment (as defined elsewhere in this code).

(4) In its discretion the board may require any applicant or opponent to the application, at his or her own expense, to provide the survey of a Tennessee Registered Land Surveyor to the board for its use if the distance measurement referenced above shall be reasonably in dispute. (1975 Code, § 2-214, as amended by Ord. #95-673, April 1995; Ord. #95-679, Aug. 1995; Ord. #95-699, Oct. 1995; Ord. #97-755, Jan. 1998; and Ord. #99-791, July 1999)

8-215. Applicant to have certificate of registration and bond required by state law. Before any license is issued by the city manager, the applicant shall submit satisfactory evidence that he has registered and received from the commissioner of revenue of the State of Tennessee a certificate showing such registration and has complied with Tennessee Code Annotated, § 57-5-106, if applicable. (1975 Code, § 2-215)

8-216. Restrictions on license for billiard and pool rooms. No license shall be issued for any place used to carry on the business of playing pool or billiards, unless for sales in the front of such place in a regularly licensed restaurant or lunchroom separated from the part of the building in which the billiard or poolroom is located by a partition or wall. (1975 Code, § 2-216)

8-217. Licenses to be displayed. The license issued hereunder shall be posted in a conspicuous place on the premises of the licensee. (1975 Code, § 2-217)

8-218. Licenses and permit not transferable. Licenses and permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate or association. Any permit issued pursuant to this chapter shall be valid:

(1) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner,
(2) Only for a single location, and cannot be transferred to another location;
(3) Only for a business operating under the name identified in the permit application. However, when an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such businesses pursuant to the same permit. (1975 Code, § 2-218)

8-219. Grounds for revocation of license and permit. The beer board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it under this division, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage or transportation of alcoholic beverages or for any violation of any provision of this code or any other ordinance of the city or when the permittee:

(1) Operates a disorderly place; or
(2) Allows fighting or boisterous or disorderly conduct on the premises; or
(3) Has been convicted by final judgement of a court of competent jurisdiction of a crime involving moral turpitude; or
(4) Allows minors to congregate about the premises; or
(5) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or
(6) Has made a false statement of a material fact in any application or notice to the board; or
(7) Sells, furnishes, dispenses or allows to be used or consumed, any beer or other alcoholic beverages to any person under the age of twenty-one (21) years; or
(8) Denies access to any portion of the premises at which the sale of beer is permitted, whether or not that portion of the premises is used for the sale of beer, to any policeman or inspector; or
(9) Allows a minor, as such term is defined in Tennessee Code Annotated, § 1-3-105(29), in his employ to sell beer; or
(10) Has been convicted by final judgement of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or
(11) Allows any violation of any provision of this article to occur on the licensed premises; or
(12) Allows any violation of the rules and regulations of the Hamilton County Health Department; or
(13) Consumes or permits an employee to consume any beer or any alcoholic beverage while on the premises, or to be intoxicated while on the premises; or
(14) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers; or
(15) The beer board may also, in its discretion, revoke a permit for due cause not specified herein.

In addition to other grounds of revocation herein provided, the violation of any of the provisions of this chapter or any false statement by any applicant on his application for a license and permit shall, in addition to any other penalty provided by law, constitute sufficient grounds for the revocation of the license and permit issued him, and the beer board may also, in its discretion, revoke a license and permit for due cause not specified herein.  (1975 Code, § 2-219, modified)

8-220. Action of beer board on report of violation. When the beer board shall receive a report concerning a violation by a licensee which violation in the opinion of the beer board would warrant the revocation or suspension of the license, the beer board shall notify the licensee to appear before the beer board at either the next regular meeting or a called meeting to show cause why his license and permit should not be revoked or suspended. At such meeting said licensee shall be entitled to a public hearing and shall be entitled to introduce such evidence in his behalf. The burden is upon the licensee at said hearing to show that he (or his employees or agents) has not been guilty of such violation or any other offense which would justify the revocation or suspension of his license and permit. After such hearing, the beer board may, in its sole discretion, either revoke or suspend the permit and license, subject only to a review as provided by state law. In the event that it shall appear to the beer board that the permit holder should have his beer permit suspended or revoked because of the sale of beer to minors, other than when the terms of Tennessee Code Annotated, § 57-5-108 apply, then such suspension for a first offense shall be for a period of not to exceed thirty (30) days and for a second such offense a period not to exceed sixty (60) days, and for the third such offense a period of not to exceed ninety (90) days, as determined by the beer board. In addition to such periods of suspension, there is hereby imposed a penalty for each such offense up to the amount of five hundred dollars ($500.00) per offense. In the event that the terms of Tennessee Code Annotated, § 57-5-108 apply, the period of suspension shall be as therein provided and a like penalty of up to $500.00 is imposed for any such offense. The beer board shall determine by vote the amount of any such revocation, suspension and penalty. The beer board may offer a permit or license holder the alternative of paying a civil penalty not to exceed $1,500.00 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed $1,000.00 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The holder's payment of a civil penalty shall not effect his ability to seek review of the civil penalty as provided by law. The alternative civil penalties provided
herein shall in all things be in accordance with Tennessee Code Annotated, § 57-5-108(a)(2). (1975 Code, § 2-220)

8-221. **Possession of federal license without city license.** The possession by any person of a federal license to sell alcoholic beverages without the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer or other beverages of like alcoholic content in violation of the provisions of this chapter. (1975 Code, § 2-221)

8-222. **Retailers to purchase from wholesalers licensed by city.** It shall be unlawful for any person holding a license for the sale or retail of beer or other beverages of like alcoholic content to purchase beer or such other beverages from any one other than a brewe r, wholesaler or distributor licensed to carry on business in Hamilton County. (1975 Code, § 2-222)

8-223. **Home delivery services prohibited.** No person shall be engaged in accepting orders and making home deliveries of beer in the city. It shall be unlawful for any person or entity to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or retail deliveries of beer. (1975 Code, § 2-223)

8-224. **Hours when sale and distribution prohibited.** No sale or distribution of beer or other beverages of like alcoholic content shall be made between the hours of 1:00 A.M. and 6:00 A.M. Monday through Saturday. No sale or distribution of beer or other beverages of like alcoholic content shall be made between the hours of 12:00 Midnight on Saturday and 12:00 Noon on Sunday. Sales or distribution of beer or other beverages of like alcoholic content for on premises consumption by those licensees holding a "restaurant" or "tavern" license shall be allowed between the hours of 12:01 P.M. Sunday and 12:00 Midnight on Sunday. No delivery shall be made by any wholesaler or distributor between 12:00 Midnight on Saturday and 7:00 A.M. on Monday. No such beverage shall be consumed or opened for consumption on or about any premises licensed hereunder in either bottle, glass or other container on any night after the closing time (specified hereinabove) and until 6:00 A.M. the following Monday. (1975 Code, § 2-224, as replaced by Ord. #96-719, § 1, and Ord. #02-862, Oct. 2002)

8-225. **Hours of operation—taverns.** Every place of business holding a tavern license as defined in § 8-209 shall be closed for all purposes not later than 1:30 A.M. Monday through Saturday and not later than 12:30 A.M. on Sunday; and are allowed to reopen 12:01 P.M. Sunday and shall close by 12:00 Midnight Sunday, and no person or persons other than the owner(s) and/or employee(s) of the place of business shall be permitted upon the premises of
such tavern after such closing hour and until it shall be unlawful to reopen on
the next succeeding lawful business day. (1975 Code, § 2-225, as replaced by
Ord. #02-863, Oct. 2002)

8-226. Sales to minors; loitering prohibited. No sale of beer or other
beverages of like alcoholic content shall be made to any minor (a person under
the age of twenty-one (21) years for the purposes of sales of beer), nor shall any
licensee permit minors or disreputable persons to loiter around or frequent his
place of business. (1975 Code, § 2-226, modified)

8-227. Unauthorized use or consumption of beverages on
premises. No licensee whose license authorizes sale for consumption off the
premises only, shall sell for consumption on the premises, neither shall such
licensee permit on premises consumption. (1975 Code, § 2-227)

8-228. Use of premises not authorized by license. No beer or other
beverages of like alcoholic content shall be manufactured, stored or sold except
at the premises designated in the license therefor. (1975 Code, § 2-228)

8-229. Employment of minors. It shall be unlawful for any licensee
holding a permit and license for on premises consumption of beer or other
beverages of like alcoholic content, in the city, to employ any person under
eighteen years of age in any conduct of such business. (1975 Code, § 2-229)

8-230. Permit required for dispensing, serving or selling beer or
other beverages of like alcoholic content for on-premises consumption.
All permit holders and employees of permit holders who dispense, serve or sell
beer or other beverages of like alcoholic content for on premises consumption
under any permit granted under this chapter must obtain by appropriate
application a permit to do so from the beer board. The beer board or its duly
authorized agent shall fingerprint and photograph all applicants for such a
permit and shall issue an appropriate permit bearing a picture of said applicant
for display in the premises for which the application is sought. Any permit
issued under this section shall not be transferrable from one permit location to
another. Any person submitting an application for a permit under this section
shall remit an application fee in the amount of ten dollars ($10.00) for each
permit. (1975 Code, § 2-230)

8-231. Licenses for on-premises consumption prohibited except
where food sold. No retail license shall be granted for the sale of beer for
on-premises consumption at any location other than a restaurant or other
similar establishment where prepared food or meals are sold. No retail license
shall be issued or granted for the sale of beer for on premises consumption at
any location which possess or operates under a license for adult-oriented
establishments and/or as to which any adult-oriented establishment activities are carried on. (1975 Code, § 2-231, as amended by Ord. #97-754, Dec. 1997)

8-232. License for off-premises consumption prohibited in non-grocery establishments. No retail license shall be granted for the sale of beer for off-premises consumption at any location other than a grocery establishment as herein defined. An establishment shall be deemed to be a grocery establishment if:

(1) A substantial portion of its gross sales, measured in terms of dollar receipts, are produced from the sale of food and grocery items as distinguished from petroleum products, hardware, sporting goods, or other non-grocery items, and

(2) A minimum inventory in food and grocery items of at least $12,000.00 at wholesale cost is maintained by such establishment. Inventories shall be valued at cost and in computing grocery sales under this section, the beer sales be included in such grocery sales. (1975 Code, § 2-232)

8-233. Sale prohibited on certain premises. Except as hereinafter provided, no beer or other beverages of like alcoholic content shall be sold:

(1) On any premises where dancing is permitted; or

(2) On any premises in direct connection with which sleeping quarters are provided.

Within the meaning of this section, sleeping quarters shall be considered as being in direct connection with the premises on which the sale is made, when the sleeping quarters are in the same room, or when any interior passageway, door, hall, stairway, or other interior connection, or a combination thereof, is available and is used in going to or from the place where such sale is made to such sleeping quarters. The prohibition contained in this section shall not apply to hotels having more than ten (10) rooms or to premises in direct connection with which there is only one room equipped with sleeping quarters and such room is used exclusively for the owner or operator of the business on such premises, or by a watchman for such business, and by the family of any owner, operator or watchman so occupying the premises. Provided that nothing contained herein shall be construed to apply permission for a night watchman at any premises licensed to sell beer as such decision is governed by other sections of the Red Bank City Code. (1975 Code, § 2-233)

8-234. Regulating and reporting—restaurant licenses. It shall be the obligation of a person holding a restaurant license, as the term "Restaurant" is defined in § 8-209 of this chapter to file quarterly reports with the city manager detailing thereon gross receipts of the restaurant and the dollar amount of and calculated percentage of gross receipts attributable to the sale of beer. Such reports shall be made on forms prepared by the city manager and filed with him not more than forty-five (45) days subsequent to March 31, June
30, September 30 and December 31 of each calendar year. Failure to timely make and file such reports shall constitute a violation of this chapter and shall subject the licensee to the penalties of this § 8-213, at the discretion of the beer board. If a licensee shall exceed the fifty percent (50%) beer sales limitation ratio as prescribed by § 8-209 for two successive quarterly reports, he shall forthwith, and within ten (10) days of the reporting date, reapply to the board for the purpose of obtaining a tavern license as defined in § 8-209(3) and shall immediately, as of the time of the reapplication, change the method of his operation to comply with all applicable regulations pertaining to taverns while said reapplication is pending. Provided further, however, that if a restaurant licensee shall elect not to reapply for a tavern license, then, in that event, a third successive quarterly report, or any two quarterly reports in the succeeding two calendar years which shall indicate that in excess of fifty percent (50%) of gross receipts were obtained by virtue of beer sales in any two three month reporting periods, then the same shall be adequate grounds for suspension or revocation of the license as per the provisions of § 8-213, et seq. of this chapter. Upon demand, each licensee shall make available to the city manager or his designee supporting books and records for the purpose of verification of the reports. A finding, by the beer board, after notice and hearing, of intentional falsification of said reports shall be grounds for suspension or revocation of the license. (1975 Code, § 2-234)

8-235. Immoral acts prohibited at premises. It shall be unlawful for any person to appear or be on the premises of a permittee under this article so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(3) The actual or simulated display of the pubic hair, anus, vulva or genitals;

(4) The permitting by a permittee of any person to remain in or upon the permittee's premises who exposes to public view any portion of his or her genitals or anus; or

(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited in subparagraph (1) through (4) of this section. (1975 Code, § 2-235)
8-236. **Privilege tax for sale of beer.** (1) Pursuant to and in conformity with Tennessee Code Annotated, § 57-5-191(b)(3) there is hereby imposed on the business of selling, distributing, storing or manufacturing beer in the City of Red Bank, a privilege tax of $100.00;

(2) Any person, firm, corporation, joint stock company, syndicate or association engaged in selling, distributing, storing or manufacturing beer shall remit the tax on January 1, 1994, and each successive January 1 to the City of Red Bank;

(3) The city manager, or his designee, shall mail written notice to each permit holder of the payment of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permit holder on its permit application. If the 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 manager 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 such permit shall be void and any such license, so voided, shall not be reinstated but such former licensee shall be required to file an application to complete the licensing process otherwise provided herein. 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, with such proration to be first made from and after January 1, 1994. (1975 Code, § 2-236)

8-237. **Existing license and permit holders.** Holders of valid licenses and permits to sell, distribute and manufacture beer as of the effective date of this section:

(1) Shall not be required to pay the application fee set forth in § 8-209 to maintain their permits;

(2) Shall be required to provide the city the information required on said application (see § 8-235);

(3) Shall, if the permit is held by someone other than the owner of the business establishment where beer is sold, distributed or manufactured, notify the city to substitute the owner of the establishment for the current permit holder.

The city manager, or his designee, shall on or before December 1, 1993, mail written notice to each person holding a permit as of the effective date of this section, requesting the information required by this chapter and state laws. If the permit holder does not respond within thirty (30) days after the written notice is mailed, then the city shall notify the permit holder by certified mail that a response is due. If the permit holder does not respond within ten (10) days after receiving the notice by certified mail, then the permit shall be void and any such license, so voided, shall not be reinstated but such former licensee
shall be required to file an application to complete the licensing process otherwise provided herein. (1975 Code, § 2-237)

8-238. Duty to return permit. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however that notwithstanding the failure to return a beer permit, a permit shall expire on the termination of the business, change in ownership, relocation of the business or change in the business's name. (1975 Code, § 2-238)

8-239. Data required from permit applicants. (1) In order to receive a permit, an applicant must establish that:
   (a) No beer will be sold except at a place where such sale will not cause congestion or traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals;
   (b) No sale will be made to minors;
   (c) No person, firm, corporation, joint-stock company, syndicate or association having at least five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;
   (d) No person employed by the applicant in such distribution or sale has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the last ten (10) years; and
   (e) No sale will be made for on-premises consumption unless the application so states and except upon compliance with all other provisions hereof governing taverns and restaurants.

   (2) An applicant shall disclose the following information in his application:
       (a) Name of the applicant;
       (b) Name of the applicant's business;
       (c) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;
       (d) If beer will be sold at two (2) or more restaurant or other businesses pursuant to the same permit as provided in Tennessee Code Annotated, § 57-5-101(b) (3), a description of all such businesses;
       (e) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;
(f) Identity and address of a representative to receive annual tax notices and any other communication from the county legislative body or its committee;

(g) That no person, firm, 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 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-premises consumption, or for a tavern or restaurant license. If a holder of a beer permit for either off-premises consumption or on-premises consumption desires to change his method of sale, he shall apply to the county legislative body or committee appointed by such body for a new permit;

(i) That all sales, and deliveries, of such beer or beverage, shall be consummated upon the premises for which the license is issued, and that no owner or operator, nor any agent or employee of either, shall remove from the premises any such beer or beverage from the said premises for sale, resale, or delivery;

(j) That in the place of business where such beverages will be sold or distributed proper sanitary facilities shall be provided;

(k) The percentage of the actual, or anticipated, gross receipts of the business derived from the sale of beer. Where such application is for an existing business, the percentage provided shall be the actual percentage for the preceding twelve (12) months, or since the establishment of the business, whichever is shorter; and

(l) Such other relevant information as may be required by the county legislative body or its committee. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application. (1975 Code, § 2-239, modified)

8-240. Disqualification for false statement. Any applicant making a false statement in the application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years. (1975 Code, § 2-240)

8-241. Violations. Violations of the provisions hereof, in addition to any administrative remedies provided herein, shall also be punishable, upon conviction, of up to thirty (30) days in jail and a fine of up to $500.00. (1975 Code, § 2-241)
CHAPTER 3

CONSUMPTION OF ALCOHOL BY MEANS OF "BROWN BAGGING"

SECTION

8-301. Brown bagging and corkage, generally.
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8-301. **Brown bagging and corkage, generally.** The provisions of this chapter shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit bagging in their establishment. It shall not apply to those persons or businesses only having a beer permit for off premises consumption as provided in title 8, chapter 2, of the city code or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201. It shall specifically apply to those persons or businesses having a beer permit for on premises consumption as provided in title 8, chapter 2 of the city code. (as added by Ord. #11-966, Aug. 2011)

8-302. **Definitions.** As used in this chapter, the following definitions shall apply:

1) "Brown bag" or "brown bagging" shall mean the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.
2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.
8-303. **Beer board and police to enforce chapter.** (1) The beer board shall issue permits, and revoke or suspend licenses issued for the activities described in § 8-301, et seq., except where such action would be inconsistent with any specific provision of this chapter.

(2) The city police and building inspector shall enforce all laws, ordinances and rules regulations establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (as added by Ord. #11-966, Aug. 2011)

8-304. **Hours regulated.** No permittee under this chapter shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, or permit any alcoholic beverages to be consumed on the premises between the hours of 1:00 A.M. and 6:00 A.M. on Monday through Saturday and between the hours of 12:01 A.M. and 12:01 P.M. on Sunday. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours. (as added by Ord. #11-966, Aug. 2011)

8-305. **Sales to incapacitated or incompetent persons prohibited.** No permittee under this chapter shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons. (as added by Ord. #11-966, Aug. 2011)

8-306. **Employment of minors.** No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this chapter without being in full compliance with Tennessee Code Annotated, § 57-3-704. (as added by Ord. #11-966, Aug. 2011)

8-307. **Immoral acts prohibited at premises.** It shall be unlawful for any person to appear or be on the premises of a permittee under this chapter so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:
(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
(2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;
(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
(4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or
(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above. (as added by Ord. #11-966, Aug. 2011)

8-308. Telephone and reports of disorders. All permittees are required to maintain a telephone in good working order on the premises and to report all fights or other public disorders occurring on such premises immediately, whether or not participants in such disorder have left the premises. (as added by Ord. #11-966, Aug. 2011)

8-309. Permit; required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (as added by Ord. #11-966, Aug. 2011)

8-310. Application; fee. (1) All applications for a permit to all setups for mixed drinks or to permit brown bagging shall be filed with the city recorder. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this chapter, and report all findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.
(2) The application shall be accompanied by a fee of one hundred dollars ($100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars ($50.00) every year thereafter to be paid on or before January 1 of each year. (as added by Ord. #11-966, Aug. 2011)

8-311. Location to be designated. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (as added by Ord. #11-966, Aug. 2011)
8-312. **Grounds for refusal.** (1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this chapter has been revoked within three (3) years or is under suspension.

(2) No such establishment shall be located within three hundred feet (300'), as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment.

(3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2) of this chapter.

(4) The beer board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the premises; and when, because of limiting conditions such as applicant's topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this chapter.

(5) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provisions of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this chapter. (as added by Ord. #11-966, Aug. 2011)

8-313. **When beer board may issue.** The beer board shall issue no permit until the application therefor has been approved following a public hearing at regularly scheduled beer board meeting with reasonable public notice. (as added by Ord. #11-966, Aug. 2011)

8-314. **To be posted.** Any permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #11-966, Aug. 2011)

8-315. **Not transferable.** No permit issued by the beer board under the provisions of this chapter shall be transferable from one (1) person to another. (as added by Ord. #11-966, Aug. 2011)
8-316. **Grounds for revocation or suspension.** (1) The beer board shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this chapter or any other ordinance, state law or regulation or federal law of regulation governing the operation of such establishments or when the permittee:

(a) Operates a disorderly place; or
(b) Allows gambling on the premises; or
(c) Allows fighting or boisterous or disorderly conduct on the premises; or
(d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or
(e) Allows minors to congregate about the premises after normal hours of business; or
(f) Sells or transfers the equipment or assets of the business authorized by has permit to another for the purpose of conducting the business at the same location; or
(g) Has made a false statement of a material fact in any application or notice to the board; or
(h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; or
(i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or
(j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale of consumption of beer or alcoholic beverages; or
(k) Allows violation of any provision of this chapter to occur on the licensed premises; or
(l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department; or
(m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or
(n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or
(o) Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with Tennessee Code Annotated, § 57-3-704.

(2) The beer board may also, in its discretion, revoke a permit for due cause not specified herein. (as added by Ord. #11-966, Aug. 2011)