

**TITLE 8**

**ALCOHOLIC BEVERAGES<sup>1</sup>**

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. RETAIL SALE OF ALCOHOLIC BEVERAGES.
4. CONSUMPTION ON PREMISES (LIQUOR BY THE DRINK).

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

8-101. Possession and consumption of alcoholic beverages in public parks.

**8-101. Possession and consumption of alcoholic beverages in public parks.** It shall be unlawful for any person to be in possession of, or to consume, any beverage with alcoholic content in any of the public parks or areas under the jurisdiction of the parks and recreation board, except as allowed by special permit issued by the Lakeland Board of Commissioners. (Ord. #206, July 1997)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

## CHAPTER 2

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

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Reserved.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations.
- 8-217. Conflicting code provisions repealed.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of commissioners of the City of Lakeland, who shall serve for the term of their elected office. The mayor of the City of Lakeland shall serve as the chairman. (1989 Code, § 2-201, as replaced by Ord. #07-110, Nov. 2007)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided at least twelve (12) hours written notice is given to each member. The board may adjourn a meeting at any time to another time and place. (1989 Code, § 2-202, as replaced by Ord. #07-110, Nov. 2007)

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<sup>1</sup>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).

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1989 Code, § 2-203, as replaced by Ord. #07-110, Nov. 2007)

**8-204. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (1989 Code, § 2-204, modified, as replaced by Ord. #07-110, Nov. 2007)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Lakeland in accordance with the provisions of this chapter. (1989 Code, § 2-205, as replaced by Ord. #07-110, Nov. 2007)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight; provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1989 Code, § 2-206, as replaced by Ord. #07-110, Nov. 2007)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Lakeland. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (1989 Code, § 2-207, as replaced by Ord. #07-110, Nov. 2007)

**8-208. Privilege tax.**<sup>1</sup> There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Lakeland, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1989 Code, § 2-208, modified, as replaced by Ord. #07-110, Nov. 2007)

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit. (1989 Code, § 2-209, modified, as replaced by Ord. #07-110, Nov. 2007)

**8-210. Reserved.** (1989 Code, § 2-210, as replaced by Ord. #07-110, Nov. 2007)

**8-211. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, church or other place of public hearing.

No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-104(b).

six (6) month period. (1989 Code, § 2-211, modified, as replaced by Ord. #07-110, Nov. 2007, and Ord. #16-241, June 2016)

**8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.** It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

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

(2) Make or allow the sale of beer between the hours of 12:00 A.M. (midnight) and 6:00 A.M. on weekdays and between the hours of 12:00 A.M. (midnight) Saturday and 12:00 P.M. (noon) on Sunday.

(3) Make or allow any sale of beer to any intoxicated person.

(4) Allow drunk persons to loiter about his premises. (1989 Code, § 2-212, as replaced by Ord. #07-110, Nov. 2007, and Ord. #18-266, July 2018 *Ch8\_12-06-18*)

**8-213. Revocation or suspension of beer permits.** The beer board shall have the power to revoke or suspend any permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. Further, the beer board shall have the power to revoke or suspend any permit issued under the provisions of this chapter when a permit holder, within any twelve (12) month rolling period, receives two (2) or more citations arising out of the same code violation and the permit holder fails to adequately and timely remedy the violation. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the city manager or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-6-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The

revocation shall be for three (3) years. (1989 Code, § 2-213, as replaced by Ord. #07-110, Nov. 2007, and Ord. #17-251, May 2017 *Ch8\_12-06-18*)

**8-214. Civil penalty in lieu of revocation or suspension.**

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

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

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (1989 Code, § 2-214, modified, as replaced by Ord. #07-110, Nov. 2007)

**8-215. Loss of clerk's certification for sale to minor.** If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #07-110, Nov. 2007)

**8-216. Violations.** Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #07-110, Nov. 2007)

**8-217. Conflicting code provisions repealed.** Any provision(s) in the City of Lakeland code of ordinances in conflict with any provision in this chapter

is hereby deemed inoperative and repealed, specifically including, but not limited to title 8, chapter 2 of the City of Lakeland Municipal Code. (as added by Ord. #07-110, Nov. 2007)

## CHAPTER 3

### RETAIL SALE OF ALCOHOLIC BEVERAGES

#### SECTION

- 8-301. General.
- 8-302. Chapter not applicable to beer.
- 8-303. Certificate of compliance - retail package stores.
- 8-304. Certificate of compliance - retail food stores.
- 8-305. Restrictions on buildings and locations of retail stores.
- 8-306. Retail liquor license.
- 8-307. Consideration.
- 8-308. Inspection fee.
- 8-309. Operational rules and regulations.
- 8-310. Advertising.
- 8-311. Violations.

**8-301. General.** (1) Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(a) "Alcoholic beverage." Alcohol spirits, liquor, wine, and every liquid containing alcohol spirits or wine capable of being consumed by a human being, other than patented medicine, beer or wine, where either of the latter has an alcoholic content of five percent (5%) by weight, or less.

(b) "Applicant." The party applying for a certificate of compliance or a license which shall include each person to have any interest, direct or indirect, in the license as owner or partner or in the case of a corporation as officer, director, or stockholder (see additional definition under "corporation").

(c) "Application." The form or forms an applicant is required to file in order to obtain a certificate of compliance or a license.

(d) "Certificate of compliance." The certificate provided for in Tennessee Code Annotated, title 57, chapter 3, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(e) "Corporation." All certificated entity forms recognized in the State of Tennessee, including, without limitation, limited liability companies, and "stockholder" and "officer" shall be deemed to include members, limited partners, managers, principals and equity holders in said entities.

(f) "Church." That portion of a building owned by a religious institution that has property tax exempt status that is used for worship services; however, the definition of church does not include buildings and portions of buildings that are used for purposes other than worship or



that are intended to be leased, rented or used by persons who do not have a tax exempt status.<sup>1</sup>

(g) "Inspection fee." The monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(h) "License." A license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(i) "Licensee." The holder of a license.

(j) "Liquor store." The building or the part of a building where a licensee conducts any of the business authorized by this license.

(k) "Retail food store" is an establishment open to the public and that derives at least twenty percent (20%) of its taxable sales from the retail sale of food and food ingredients for human consumption, as defined in Tennessee Code Annotated, § 67-6-228, and has retail floor space of at least one thousand two hundred (1,200) square feet.

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

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

(n) "School." Means all public, private, or parochial schools that conduct classes in any grade from kindergarten through grade twelve (12) (K-12). (Tennessee Code Annotated, § 49-2-4202, with "private or parochial" added).

(o) "State alcoholic beverage commission." The Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 3.

(p) "State liquor retailer's license." A license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, title 57, chapter 1) for the purpose authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(q) "State rules and regulations." All applicable rules and regulations of the state applicable to alcoholic beverages as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the state alcoholic beverage commission.

(r) "State statutes." The statutes of the state now in effect or as they may hereafter be changed.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 67-4-2903

(s) "Wholesale sale or sale at wholesale." A sale to any person for purposes of resale.

(t) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101 through 57-3-110.

(u) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit, or other product from which the same was predominately produced, or an artificial or imitation wine. "Wine" does not mean alcohol derived from wine that has had substantial changes to the wine due to the addition of flavorings and additives.

(2) Compliance with all applicable laws and ordinances required. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage, or to sell, store, transport, distribute, purchase or possess any alcoholic beverage, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter.

(3) Wholesalers. Unless hereafter authorized by ordinance, no wholesaler's license shall be granted to any person for the operation of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler, whose business is located outside the city and who holds a valid state license and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may sell at wholesale any alcoholic beverage to a licensee in the city and such licensee may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter.

(4) Sale legalized. (a) It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations, and the provisions of this chapter.

(b) It shall be lawful for a retail food store with the appropriate license(s) to sell wine as provided in Tennessee Code Annotated, § 57-3-801, et seq.

(5) Liability of licensee for acts of others. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #16-242, June 2016)

**8- 302. Chapter not applicable to beer.** No provisions of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five percent (5%) or less. (as added by Ord. #16-242, June 2016)

**8-303. Certificate of compliance - retail package stores.**

(1) Certificate of good moral character. When application is made of the certificate of good moral character required by Tennessee Code Annotated, § 57-3-208, as a condition to the issuance or renewal of a state alcoholic beverage license, such certificate shall be signed by the mayor.

The certificate shall state:

(a) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(b) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

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

(2) Application - filing: contents. For the applications submitted after the effective date, each application shall be accompanied with nonrefundable certified funds of five hundred dollars (\$500.00) and each applicant for a certificate of compliance shall file a completed form of application, on a form to be provided by the city manager, and which shall contain all of the following information:

(a) The name and street address of each person to have any interest, direct or indirect, in the license as owner, partner, or in the case of a corporation as officer, director or stockholder or otherwise;

(b) A statement of applicant's prior business experience;

(c) The proposed name of the liquor store to be operated under the license;

(d) The address of the liquor store to be operated under the license;

(e) The names and addresses of at least three (3) residents of the city who have known each applicant for at least two (2) years, and who are not related to the applicant;

(f) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the state alcoholic beverage commission with reference to the sale of alcoholic beverages, and the agreement of each applicant to the validity of and the reasonableness of the regulations, inspection fees and taxes provided in this chapter with reference to the sale of alcoholic beverages.

(g) The financial interest of the owners, partners, stockholders or directors, whether the same is a firm, partnership or corporation.

(h) The application form shall be accompanied by a questionnaire form completed by each person having interest in the business and five (5) copies of a scale plan drawn to a scale of not less than one inch equals fifty feet (1" = 50'), giving the following information:

(i) The shape, size and location of the lot upon which the liquor store is to be operated under this license;

(ii) The shape, size, height and location of all buildings, whether they are to be erected, altered, moved or existing, upon the lot;

(iii) The identification of every parcel of land within three hundred feet (300') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon, and the use being made of every such parcel.

(i) The application form shall be signed and verified by each person to have any interest in the license either as owner or partner or in the case of a corporation, as officer, director or stockholder or otherwise.

(3) Misrepresentation or concealment of material fact. If any applicant misrepresents any material fact or conceals any material fact in any application form filed for the purpose of complying with the requirements contained in § 8-303(1), such applicant shall be deemed to have violated the provisions of this chapter.

(4) Restrictions upon issuance. (a) No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(b) The mayor shall not sign any certificate of compliance for any applicant until:

(i) Such applicant's application has been filed with the city manager;

(ii) The location stated in the certificate has been approved by the board of commissioners as a suitable location for the operation of a liquor store, and considering geography of the area to be served;

(iii) The application has been considered at a meeting of the board of commissioners and approved by the vote of at least three (3) members thereof.

(5) Restrictions upon corporate licenses. If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or director in such corporate licenses shall have any interest as an owner, stockholder, officer, director or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverage in the state.

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(6) Term renewal. Certificates of compliance shall be valid for two (2) years from issuance. Certificate renewals shall follow all guidelines and requirements as if they were an original application. Renewals shall be subject to compliance with all applicable state statutes, all applicable state rules and regulations and provisions of this chapter and a three hundred dollar (\$300.00) renewal fee. (as added by Ord. #16-242, June 2016)

**8-304. Certificate of compliance - retail food stores.** (1) Certificate of good moral character. When application is made of the certificate of good moral character required by Tennessee Code Annotated, § 57-3-803, as a condition to the issuance or renewal of a state alcoholic beverage license under that section, such certificate shall be signed by the mayor.

(a) The certificate shall state:

(i) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(ii) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

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

(2) Application - filing: contents. For the applications submitted after the effective date, each application shall be accompanied with nonrefundable funds equal to the greater of twenty dollars (\$20.00) or the cost of the applicable background check. Each applicant for a certificate of compliance shall file a completed form of application, on a form to be provided by the city manager. (as added by Ord. #16-242, June 2016)

**8-305. Restrictions on buildings and locations of retail stores.**

(1) All retail sales shall be confined to the premises of the licensees. No curbside service is permitted nor shall there be permitted drive-in windows.

(2) No liquor store shall be located in the city on any premises above the ground floor. Each such store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, that any liquor store adjoining the lobby or a hotel or motel may maintain an additional entrance into such lobby as long as such lobby is open to the public.

(3) No retail stores shall be in closer proximity to any school (public or private) or any church than three hundred feet (300') as measured in a straight line from the nearest corner of said retail store to the nearest corner of said aforementioned institutions or facilities.

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

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

(6) All liquor stores shall be a permanent type of construction in a material and design. No liquor store shall be located in a manufactured or other movable pre-fabricated type of building. All liquor stores shall have night lights surrounding the outside of the premises in accordance with the Lakeland Land Development Regulations and shall be equipped with a functioning burglar alarm system on the inside of the premises. The square footage of the liquor store display area shall be a minimum of one thousand (1,000) square feet. All liquor stores shall be subject to the applicable zoning, land use building and safety regulations as adopted within the City of Lakeland Municipal Code, unless specifically stated otherwise herein. (as added by Ord. #16-242, June 2016)

**8-306. Retail liquor license.** (1) Qualifications of applicant. To be eligible to apply for or to receive a retail liquor license in the City of Lakeland, Tennessee, an application must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of a state liquor retailer's license.

(2) Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

(3) Nature of license: suspension or revocation. The issuance of a license does not vest a property right in the license but is a privilege subject to

revocation or suspension by the Tennessee Alcoholic Beverage Commission. The mayor shall have the authority to report to the commission any violation of this chapter by the licensee or by any person for whose acts the licensee is responsible.

(4) Display. The licensee shall display and post, and keep displayed and posted his license in a conspicuous place in the licensee's liquor store at all times when an activity or business authorized hereunder is being done by the licensee.

(5) Number of licenses. There shall be a limit of one (1) license issued and outstanding in the city for every five thousand (5,000) residents. Regardless of Lakeland's population, there shall be no more than three (3) total licenses or package stores in Lakeland's municipal limits.

(6) Transfer. A licensee shall not sell, assign, or transfer his license or any interest therein to any other person without a certificate of compliance by the board. Provided, however, licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. In any case where a licensee is an individual and the individual dies or becomes incapacitated during the term of the license, upon proper application to the city council and upon compliance with all regulations hereunder and all applicable laws of the state or regulations of the alcoholic beverage commission of the state, the widow or duly qualified and appointed personal representative or guardian or conservator of said licensee may be issued a license for said retail establishment for the duration for the term of the original licensee's license. If a partnership, the surviving partner may do likewise, having said license issued to him as an individual.

(7) Miscellaneous restrictions upon licensees and their employees.

(a) No retailer's license shall be issued to a person who is a holder of a public office, either appointed or elected, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any such interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commission on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(b) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity to which he is connected shall receive a license; provided, that this provision shall not apply to any person who has been

so convicted, but whose rights of citizenship have been restored or judgment of infamy has been, removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

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

(d) No manufacturer, brewer or wholesaler shall have any interest in the licensee's rental, occupancy or revenues.

(e) It shall be unlawful for any person to have ownership or to participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in such business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the state alcoholic beverage commission and approved by it. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signed or prepared the application or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of such disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

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

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



have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(h) No licensee shall employ any canvasser, agent, solicitor or representative otherwise for the purpose of receiving an order from a consumer of any alcoholic beverages at the residences or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises.

(i) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter. (as added by Ord. #16-242, June 2016)

**8-307. Consideration.** In issuing the initial certificates of compliance sufficient for the licensing of up to three (3) liquor stores in the city, the city will accept all completed applications on a first come, first serve basis. (as added by Ord. #16-242, June 2016)

**8-308. Inspection fee.** (1) Levied. The City of Lakeland imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. The City of Lakeland also imposes an inspection fee in the maximum amount allowed by state law on all wine sold in retail food stores. This inspection fee has no application to restaurants serving alcoholic beverages.

(2) Invoices. (a) It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverages to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, currently with each such shipment or delivery, an invoice showing:

- (i) The date of the transaction;
- (ii) The name and address of the wholesaler and of the licensee;
- (iii) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (iv) The unit wholesale price and the gross wholesale price for each item listed thereon.

(b) The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment of the invoice so as to include all such transactions whether for cash or on credit or partly for cash and partly on credit.

(3) Form for reports: rules and regulations. The city manager shall prepare and make available to each wholesaler or other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by each licensee making purchases from such wholesaler or other source; and the city manager is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records of such sales and fees to be kept by each wholesaler or other vending source.

(4) Collection. Collection of the inspection fee levied herein shall be made by the wholesalers or other source, vending to the licensee at the time the sale is made to the licensee, and in such case payment of the inspection fee by such collecting wholesaler or other source shall be made to the city manager on or before the fifteenth (15th) day of each calendar month. Nothing herein shall relieve the licensee of the obligation of 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 manager on or before the fifteenth (15th) day of each calendar month.

(5) Effect of failure to report and pay. The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this chapter shall be reported by the mayor to the Tennessee Alcoholic Beverage Commission as a violation of this chapter.

(6) Use of funds. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed; the board finds and declares that the amount of those inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes.

(7) Supplemental nature. The inspection fee levied herein shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages and shall not be a substitute for such taxes.

(8) Inspections. The city manager or the city manager's authorized representative is authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager or the city manager's authorized representative is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store shall be unlawful. The city manager or the city manager's authorized representative shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken against the offending licensee. (as added by Ord. #16-242, June 2016)

**8-309. Operational rules and regulations.** (1) Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city manager pursuant to this chapter, each licensee shall keep on file at such licensee's liquor store the following records:

(a) Original invoices required herein for all alcoholic beverages bought by or otherwise supplied to the licensee;

(b) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler; and

(c) An accurate record of all alcoholic beverages lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved, and, where known, the name of the person or persons receiving the same.

(d) All such records shall be preserved for a period of at least two (2) years unless the city manager gives the licensee written permission to dispose of such records at an earlier time.

(2) Hours and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day, on New Year's Day, on Labor Day, on the 4th of July or on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M.

(3) Management. Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address if the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such shall be reported forthwith in writing to the city manager.

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

(5) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one (21) years of age. It shall be the responsibility of the retailer, or his agents or employees, or ascertaining the age of any persons hereunder and, in the absence of false representations by any person under the age of twenty-one (21) years, reasonable relied upon by said retailer, his agent or employees, and any selling, lending, or giving away to persons under twenty-one (21) years of age shall be a violation of this section. (as added by Ord. #16-242, June 2016)

**8-310. Advertising.** Any outdoor sign, advertisement or display shall comply with Lakeland's sign ordinance. (as added by Ord. #16-242, June 2016)

**8-311. Violations.** Any person violating any provision of this chapter shall be guilty of an offense, and shall be fined a minimum of ten dollars (\$10.00) and a maximum of fifty dollars (\$50.00) for each such violation. Any licensee violating any provision of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by the state statutes, or by the state rule and regulations. Whenever any person licensed hereunder fails to account for or pay over to the city manager any license fee or inspection fee, the city manager shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (as added by Ord. #16-242, June 2016)

## CHAPTER 4

### CONSUMPTION ON PREMISES (LIQUOR BY THE DRINK)

#### SECTION

8-401. Consumption of alcoholic beverages on premises.

8-402. Levy of tax; amounts.

**8-401. Consumption of alcoholic beverages on premises.** (1) As specified and legalized under the provisions of Tennessee Code Annotated, § 57-4-101, it shall hereafter be lawful to sell intoxicating liquors to be consumed on any premises permitted under Tennessee Code Annotated, § 57-4-101 meeting the requirements set out in this division, within the boundaries of the city.

(2) Notwithstanding § 8-401(1) of the Lakeland Municipal Code, it shall be unlawful for any person to be in possession of, or to consume, any beverage with alcoholic content in any of the public parks or areas under the jurisdiction of the parks and recreation board, except as allowed by special permit issued by the Lakeland Board of Commissioners. (as added by Ord. #16-242, June 2016)

**8-402. Levy of privilege tax; amounts.** (1) Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301(b)(2), there is hereby levied a privilege tax upon any person, firm corporation, joint stock company, or association engaging in the business of selling at retail in the city, intoxicating liquors for consumption on the premises. For the exercise of such privilege, the privilege taxes levied for engaging in engaging in the business of selling at retail in the city, intoxicating liquors for consumption on the premises shall be set at the maximum amount allowed by state law which is currently equal to the applicable July 2003 amounts found in Tennessee Code Annotated, § 57-4-301(b)(1), and shall be paid annually and used for general municipal purposes. Annual privilege tax payments shall be remitted to the city not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license.

(2) Any person selling intoxicating liquors for consumption on the premises shall, before commencing business, pay the privilege tax to the city and obtain a receipt thereof, and at all times display the receipt to any officer or agent of the city charged with enforcement of this division. (as added by Ord. #16-242, June 2016)