

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS--RETAIL SALES.
2. BEER.
3. INTOXICATING LIQUORS--ON PREMISES CONSUMPTION.

CHAPTER 1

INTOXICATING LIQUORS--RETAIL SALES

SECTION

- 8-101. Generally.
- 8-102. Licenses.
- 8-103. Certificate of compliance.
- 8-104. Inspection fee.
- 8-105. Operational rules and regulations.

8-101. Generally. (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 (5%) percent 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.

(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 1, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

¹State law reference

Tennessee Code Annotated, title 57.

(e) "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.

(f) "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.

(g) "License fee:" The annual fee to a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(h) "Licensee:" The holder of a license.

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

(j) "State Alcoholic Beverage Commission:" The Tennessee Alcoholic Beverage Commission, provision for which is made in the State Statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 3.

(k) "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.

(l) "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.

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

(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. 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.

(5) Inspections. The mayor, the city clerk, or the authorized representative of either of them, are authorized to examine the books, papers and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The mayor, the city clerk, the chief of police and any other police officer of the city is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store, shall be unlawful. The mayor shall forthwith report such violation to the State Alcoholic Beverage Commission with the request that appropriate action be taken to revoke the license of the offending licensee.

(6) 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.

(7) 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 rules and regulations.

(8) Contraband beverages. Policemen shall take possession of any alcoholic beverages which have been received by, or are in the possession of, or are being transported by any person in violation of state statutes or regulations, federal statutes or this chapter. All beverages shall be turned over to the Tennessee Alcoholic Beverage Commission in accordance with Tennessee Code Annotated, title 57, chapter 9. (Ord. #___, Dec. 1984)

8-102. Licenses. (1) Qualifications of applicant. To be eligible to apply for or to receive a license, an applicant 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 and must have been a resident of the City of Humboldt, Tennessee, at least two (2) years immediately preceding the date when the application is filed with the mayor.

(2) Amount of fee. Before any person shall engage in the sale of alcoholic beverages a business tax shall be paid to the city clerk and a license secured for the operation of a liquor store, for which a license fee of five hundred dollars (\$500.00) per year shall be paid. The fee for a license issued after February 1 in any calendar year for the remainder of such calendar year shall be an amount equal to one-twelfth (1/12) of the annual fee for each remaining month including the month of issuance.

(3) Issuance, term, renewal. The amount of the license fee set forth shall be for the calendar year, and each license shall expire on December 31st of each year. A license shall be subject to renewal each year by compliance with all applicable state statutes, all applicable state rules and regulations and the provisions of this chapter. All license fees shall be paid to the city clerk; and the city clerk shall not be authorized to issue any license until the applicant has qualified as a liquor retailer under the state statutes and has exhibited to the city clerk the state liquor retailer's license issued to the applicant by the State Alcoholic Beverage Commission. The license issued by the city clerk shall be of no effect after the expiration of the period for which issued or at any time while the license is suspended or revoked.

(4) 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.

(5) 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 any activity or business authorized hereunder is being done by the licensee.

(6) Number of licenses. There shall be no limit on the number of licenses issued and outstanding in the city.

(7) 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.

(8) Miscellaneous restrictions upon licensees and their employees.

(a) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter.

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

(c) 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 with 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.

(d) 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.

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

(f) 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 mayor and approved by him. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or 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.

(g) No retailer or any employee thereof engaged in the sale of alcoholic beverages shall be a person under the age of eighteen years (18), and it shall be unlawful for any retailer to employ any person under eighteen years (18) 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 to engage in the storage, sale or distribution of alcoholic beverages.

(h) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten years (10) 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.

(i) No advertising by a licensee of signs, displays, posters or designs intended to advertise any alcoholic beverages is permitted within the corporate limits of the city; except, that a sign approved by the mayor, in letters not larger than eight (8) inches in height designating the premises as "_____ Package Store." Only one such sign, and no other, shall be permitted and no sign shall extend or project from the building; provided however, that when a store is located at an intersection a sign shall be permitted on both sides of the building facing the two streets.

(j) 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.

(k) All retail sales shall be confined to the premises of the licensee. No curb service is permitted nor shall there be permitted drive-in windows.

(l) 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.

(m) No liquor store shall be located other than in zoning districts shown on the Zoning Map as B-1, B-2 and B-3. No license shall be issued for a liquor store within 400 feet of a Nursery-Day Care, Kindergarten, Elementary or Secondary school, church or public library, or park or playground, as measured by the distance a pedestrian would normally walk; the distance to be measured from the front door of such liquor store to the front door of such Nursery-Day Care, Kindergarten, Elementary or Secondary school or church or public library; and measured from the front door or such liquor store to the property line of such park or playground. Where the strict interpretation of this provision would result in peculiar or exceptional practical difficulties, a variance may be granted by the board. (Ord. #___, Dec. 1984)

8-103. Certificate of compliance. (1) Application - filing: contents. Each applicant for a certificate of compliance shall file with the Mayor an

application fee of \$100.00, a completed form of application, on a form to be provided by the mayor, 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 name of the liquor store to be operated under the license;

(d) The address of the liquor store to be operated under the license and the applicable zoning designation;

(e) The statement that each applicant has been a resident of the City of Humboldt for at least two (2) years immediately prior to the time the application is filed;

(f) 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;

(g) 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. The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the State Alcoholic Beverage Commission in connection with this same application, and shall also be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one (1) inch equals fifty (50) feet, giving the following information:

(i) The shape, size and location of the lot upon which the liquor store is to be operated under the 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 off-street parking space and the off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street and;

(iv) The identification of every parcel of land within one hundred (100) feet 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. 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. If at any time the applicable state

statutes should be changed so as to dispense with the requirement of a certificate of compliance, no original or renewal license shall be issued until an application in the same form has been filed with the city clerk.

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

(2) Same - 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 section 8-103(1) such applicant shall be deemed to have violated the provisions of this chapter.

(3) Same - 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) Neither the mayor nor board shall sign any certificate of compliance for any applicant until:

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

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

(iii) The applicant's demonstrated business ability has been determined to be good;

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

(4) 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 has not been a resident of the City of Humboldt for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder. (Ord. #___, Dec. 1984)

8-104. Inspection fee. (1) Levied. There is hereby levied on each licensee an inspection fee in the amount of eight (8%) percent of the wholesale price of all alcoholic beverages supplied during each month by wholesalers to such licensee.

(2) Invoices. (a) It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage 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, concurrently 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 clerk 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 clerk 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 wholesaler 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 clerk 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 clerk on or before the fifteenth (15th) day of each calendar month.

(5) Bond. Each licensee, as a condition precedent to operating a liquor store in the city, shall execute and deliver to the city a bond in the amount of two thousand five hundred dollars (\$2,500.00); said bond shall be payable to the city and shall be executed by a surety company duly authorized and qualified to do business in the state; said bond shall be conditioned that the licensee shall pay or have paid to the city all inspection fees due hereunder. The surety bond shall be in a form approved by the city attorney.

(6) 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.

(7) 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.

(8) 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. (Ord. #___, Dec. 1984)

8-105. Operational rules and regulations. (1) Compliance with zoning. All provisions of the city's zoning ordinance, including but not limited to, those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter.

(2) Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city clerk 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.

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

(3) 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 Years 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.

(4) 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 of 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 manager shall be reported forthwith in writing to the city clerk. (Ord. #___, Dec. 1984)

CHAPTER 2

BEER

SECTION

- 8-201. Legalizing manufacture and sale of beer.
- 8-202. License required.
- 8-203. Regulations.
- 8-204. Conditions precedent.
- 8-205. Training program and fee.
- 8-206. License revocable.
- 8-207. Penalties.
- 8-208. License to hotels, clubs, and lodges.
- 8-209. Approval of application.
- 8-210. Hours of sale.
- 8-211. Suspension of license.
- 8-212. Expiration of license.
- 8-213. Provisions determined severable.
- 8-214. Emergency powers.

8-201. Legalizing manufacture and sale of beer. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five (5) percent by weight or any other beverage of like alcoholic content within the corporate limits of the City of Humboldt, subject to all the regulations, limitations, and restrictions provided by Tennessee Code Annotated, § 57-5-101, et seq., or other laws of the state and subject to the rules, regulations, limitations, and restrictions hereinafter provided or hereafter promulgated. (1980 Code, § 2-201)

8-202. License required. No person, firm, corporation, syndicate, or association shall engage in the storing, selling, distributing, and/or manufacturing of beer of alcoholic content of not more than five (5) percent by weight or other beverage of like alcoholic content within the corporate limits of the City of Humboldt until he shall have received a permit or license to do so from the mayor, which license shall at all times be subject to all the limitations and restrictions hereinafter provided. The mayor shall not issue such license unless and until he is instructed to do so by the board of mayor and aldermen as hereinafter provided. (1980 Code, § 2-202)

8-203. Regulations. (1) No license shall be issued to sell beer or other beverage coming within the provisions of this chapter or in violation of any provisions of the state law, or where such sale will cause congestion of traffic or interfere with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, or morals. The judgment of the board of

mayor and aldermen on such matters shall be final except that same is subject to review at law. No license shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda fountain drinks, merchandise, or commodities, other than the serving of meals and lunches; provided, nothing in this section shall prevent sale or consumption in dining rooms and lunch rooms of stores where such rooms are separate and distinct from other departments.

(2) Provided, however, that no license for the sale of on premise consumption shall be issued except in the following geographical areas of the city:

(a) An area zoned B-2 by the zoning ordinance adjacent to 22nd Avenue, bounded on the North by Maple Street; on the South by Main Street; on the East by R-1; and on the West by R-4.

There shall be allowed four (4) licenses in this area or any extension or constriction thereof.

(b) An area adjacent to 22nd Avenue and East End Drive zoned B-2 by the zoning ordinance and bounded on the South by Mitchell Street and on the Northeast by the city limits.

There shall be allowed four (4) licenses in this area and any extension or constriction thereof.

(c) An area zoned B-3 by the zoning ordinance and bounded on the North by Vine Street; on the East by 9th Avenue; on the South and West by Front Street.

There shall be allowed six (6) licenses in this area or any extension or constriction thereof.

(d) The area zoned B-3 by the zoning ordinance and bounded on the North by Osborne Street; on the East by R-4 and 16th Avenue; on the South by Burrow Street, Penn Street, M-1, and Grenshaw Street; on the West by 11th Avenue and M-1.

There shall be allowed three (3) licenses in this area or the extension or constriction thereof.

(e) An area included in zone M-1 by the zoning ordinance bounded on the South by Main Street; on the East by R-4 between 10th Avenue and 11th Avenue; on the North by the L & N Railroad; on the West by the I.C.G. Railroad.

There shall be three (3) licenses allowed in this area or any extension or constriction thereof.

(f) An area included in a M-1 zone by the zoning ordinance and bounded on the North by an alley, Merchants State Bank, and the City of Humboldt; on the East by R-3; on the South by Penn Street; on the West by the City of Humboldt and I.C.G. Railroad.

There shall be allowed four (4) licenses in this area or any extension or constriction thereof.

(g) All the area in the M-1 Zone in the area bounded on the South by McKnight Street on the East by the I.C.G. Railroad; and on the West by L & N Railroad.

There shall be allowed four (4) licenses in this area or any extension or construction thereof.

(h) In addition to the limitations set out in (a) thru (g) above, no license to sell beer for consumption on the premises shall issue if the location is 500 feet within public parks, public playgrounds, schools or churches.

In addition to the number of licenses authorized in subsections a--g above, any business holding the highest grade for restaurants issued by the State of Tennessee and which business derives more than fifty percent (50%) of its revenues from the dispensing of food prepared by such business for consumption by its customers on the business premises together with non-alcoholic beverages may be granted a license in any area of the city except in those zoned R-1 through R-4 by the zoning ordinance. Any establishment selling beer for consumption on the premises not meeting the highest grades for restaurants issued by the State of Tennessee and which establishment does not derive more than fifty (50%) percent of its revenues from the dispensing of food prepared by such business for consumption by its customers on the premises together with non-alcoholic beverages shall not be permitted to have its business open between the hours of 11:59 P.M. and 7:00 A.M. on Monday through Friday of each week or between the hours of 11:59 P.M. on Saturday and 7:00 A.M. on Monday of each week.

Providing further that all valid licenses now existing shall continue to be valid until they expire without renewal or are surrendered or revoked for good cause.

(3) The location of premises on which a license is issued shall be well-lighted to the extent that persons and features are clearly distinguishable. Further, such location or premises must have an opening on the front where the occupants are clearly visible to someone looking in from the outside. (1980 Code, § 2-203, as amended by Ord. #83-7, Nov. 1983, Ord. #84-1, March 1984, Ord. # 88-2, Feb. 1988, and Ord. #92-6, July 1992)

8-204. Conditions precedent. Before any license is issued by the mayor, the applicant therefor shall file with the board of mayor and aldermen a sworn petition in writing establishing the following facts which are hereby made conditions of any permit issued thereunder, and any misstatement of fact shall be sufficient cause for the suspension or revocation of such license:

(1) The applicant shall be a citizen of the United States or if a firm, syndicate, or association, the members thereof shall be citizens of the United States. The application shall designate the location of the premises where the

business will be conducted and shall name the owner or owners of such premises.

(2) The applicant shall submit a complete application attached hereto at Exhibit A.

(3) Application fees. The application fee for a person, firm, corporation, partnership or any other entity shall be norefundable in the amount of two hundred fifty dollars (\$250) as required by Tennessee Code Annotated, § 57-4-104.

(4) Privilege tax. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer in this city a privilege tax of one-hundred dollars (\$100) as provided in Tennessee Code Annotated, § 57-5-104, notwithstanding the provisions of Tennessee Code Annotated, § 57-6-112.

The board of mayor and aldermen shall consider the applications filed and grant or refuse the license according to its best judgment of the facts and circumstances. Any person, firm or entity determined by the beer board or the board of mayor and aldermen to be capable of carrying out the sale of beer in compliance with the laws of the State of Tennessee and the ordinances of the City of Humboldt, and who has not been convicted of a felony within the last ten (10) years, or convicted of a violation of the laws of the State of Tennessee or the ordinances of the City of Humboldt for the violation of sale, possession, manufacture, or transportation of narcotic drugs, beer, or intoxicating liquors, or of any crime involving moral turpitude or dishonesty within the past ten (10) years shall be issued a license to sell beer. The action of the board of mayor and aldermen in granting or refusing a license shall be final except as same is subject to review at law. (1980 Code, § 2-204, as amended by Ord. #92-6, July 1992, and Ord. #2003-06, Sept. 2003)

8-205. Training program and fee. Applicants who have been approved for a license under this section shall attend training program provided by the Humboldt Police Department. The training program shall provide the licensee with a copy of the state law and municipal ordinances that govern the sale of beer. A reasonable copying fee of ten dollars (\$10) will be charged.

For licensees who have a history of license revocations, a training program consisting of a review of the state law and municipal ordinances accompanied by procedural training designed to eliminate sale of intoxicants to minors as well as other violations of state law or municipal ordinances will be required. The training program for licensees whose licenses have been revoked once shall be fifty dollars (\$50). For licensees whose licenses have been revoked twice, the training fee shall be one hundred dollars (\$100). For licensees with three or more revocations, the training fee shall be three hundred dollars (\$300). No licensee shall begin operation until he or she has attended the training program and received a certificate of compliance from the Humboldt Police Chief. (Ord. #92-6, July 1992)

8-206. License revocable. Licenses issued pursuant to the authority of the board of mayor and aldermen shall be revocable by the board of mayor and aldermen. Whenever it shall be brought to the attention of said board of mayor and aldermen that any declaration of fact contained in the application is false, or that there has been any violation thereof, or that the limitations and conditions of the license have been violated, or that the licensee permits minors to frequent or loiter around his place, or permits gambling or gambling devices of any character under the same roof in which such beverages are sold, or permits liquor or other beverages of alcoholic content greater than five percent (5%) by weight to be brought on his premises or consumed thereon, or permits any drunken, disreputable, or disorderly person or persons heretofore connected with the violating of liquor laws to make his establishment a place of visitation or resort, fails to file a report or pay any tax or license fee required, or otherwise violates the provisions or restrictions of the state law or of any ordinance, said board of mayor and aldermen shall revoke such license.

(1) No person shall be employed in the sale of such beverages except at the place or places for which the board of mayor and aldermen has issued a license or licenses to said applicants.

(2) No sale of such beverage shall be made except in accordance with the following conditions:

(a) If the application is for a license to sell at hotels, sales for consumption on the premises will be made only at tables and to persons in guest rooms.

(b) If the application is for a license in a club or lodge, such applicant must be a regularly incorporated club or lodge operating under a charter and bylaws in which the officers are elected by regular membership. Members of said organization must pay a substantial membership or initiation fee. The purpose of organization and existence of said club shall be for purposes other than the sale of beverages covered by this chapter.

(c) If the application is for a license for sale of beer not to be consumed on the premises, no sale shall be made other than in a container (bottle, can, or keg) in which it was delivered to the licensee.

(3) No sale shall be made to minors. Applicant shall not permit minors or any disorderly or disreputable person or persons previously convicted of violation of the liquor laws to loiter around or frequent his place of business.

(4) Applicant shall not allow gambling or gambling devices on his premises.

(5) Applicant shall not allow any liquors or beverages of alcoholic content greater than five percent (5%) by weight to be brought into his premises for consumption therein.

(6) Neither the applicant nor any person employed by him in the distribution, sale, or manufacture of beer shall have been convicted of any violation of the laws of the State of Tennessee against the sale, manufacture,

possession, or transportation of beer, drugs or intoxicating liquors, or of any crime involving moral turpitude within the past ten years.

(7) Applicant shall conduct the business in person for himself. If applicant is acting as agent, the application shall state the person, firm, corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(8) Applicant shall not distribute or sell beverages in bottles or other containers unless such containers shall bear a label or cap showing the name of the manufacturer thereof.

(9) Applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state. No manufacturer or distributor shall sell beer for resale except to those who have been licensed by the board of mayor and aldermen.

Applicant shall submit with his application satisfactory evidence that he has registered and received from the Commissioner of Finance and Taxation of the State of Tennessee a certificate showing such registration and that he has filed with said commissioner of finance and taxation a bond securing the payment of the state taxes. (1980 Code, § 2-205, as amended by Ord. # 92-6, July 1992)

8-207. Penalties. Upon the violation of any one of the circumstances listed in § 8-206, the board of mayor and aldermen, acting as the beer board or as the board of mayor and aldermen shall suspend or revoke the license of any licensee found in violation as follows:

(1) **First offense.** Suspension of license for a period of thirty (30) days effective at midnight the day of the board's decision.

(2) **Second offense.** Revocation of license. Licensee may not reapply before the expiration of ninety (90) days following the action revoking the license.

(3) **Third offense.** Revocation of license. Licensee may not reapply before the expiration of one (1) year following the action revoking the license.

The penalty for the violation of § 8-206(3), selling intoxicants to a minor, for the first offense shall be revocation of license. Licensee may reapply after thirty (30) days following the date of the action revoking the license by paying the application fee and by instituting a policy designed to eliminate sales to minors.

The penalty for the violation of § 8-206(3) selling intoxicants to a minor for a second time (but not within one year) shall be the revocation of the license. Licensee may not reapply until the expiration of ninety (90) days and the installation of a policy designed to enforce the prohibition against sale of intoxicants to minors.

The penalty for the violation of § 8-206(3), selling intoxicants to a minor, for the second offense within one (1) year shall be punishable by revocation of the license for one (1) year.

In the event a license is revoked three times for the violation of § 8-206(3) selling intoxicants to a minor (but not within 18 months), the license shall be revoked. Licensee may not reapply before the expiration of one (1) year.

In the event a license is revoked three times by the board of mayor and aldermen within eighteen (18) months for the offense of selling intoxicants to a minor, no new license or permit shall be issued to permit the sale of beer to the same person or entity for a period of five (5) years.

Where a permit or license has been revoked by the board of mayor and aldermen, three times, no new license or permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective, unless there has been a bona fide change or transfer of title and ownership in and to the business and fixtures used in said business; provided, further, that if there be a bona fide sale of the business and fixtures thereof, a sale or transfer of the real property on which said premises are located shall not be necessary. (1980 Code, § 2-205, as amended by Ord. #92-6, July 1992)

8-208. License to hotels, clubs, and lodges. A license may be issued for the sale of any beverage coming within the provisions of this chapter in hotels, clubs, or lodges, subject to all the limitations and restrictions contained in Tennessee Code Annotated, § 57-5-101, et seq., and subject to the limitations and restrictions provided by this chapter. (1980 Code, § 2-206)

8-209. Approval of application. Applications for license shall be filed with the mayor who shall make an investigation. The police department may assist in the investigation. Upon completion of said investigation, the mayor shall submit the application and recommendations to the board of mayor and aldermen at its next meeting. The board of mayor and aldermen shall consider the application and shall endorse its action thereon. If approved, the mayor shall issue a license. (1980 Code, § 2-207)

8-210. Hours of sale. No sale of any beverage coming within the provisions of this chapter shall be made between the hours of 12 o'clock midnight and 7:00 A.M. on weekdays or between the hours of 12 o'clock midnight on Saturday and 7:00 A.M. on Monday. (1980 Code, § 2-208)

8-211. Suspension of license. The board of mayor and aldermen may suspend a license issued under the provisions of this chapter for violation of §§ 8-203 and 8-204. Upon finding a violation, the board shall serve notice to the licensee stating the violation and shall require the licensee to show cause why the license shall not be suspended. The licensee shall have five (5) days in which to request a hearing before the board of mayor and aldermen. (1980 Code, § 2-209, as amended by Ord. #92-6, July 1992)

8-212. Expiration of license. Each license shall expire twelve (12) months following the date of its issuance unless revoked.

No license may be transferred, assigned or sold. (Ord. #92-6, July 1992)

8-213. Provisions determined severable. The provisions contained in chapter two, §§ 8-201 -- 8-212 are deemed severable. In the event a provision is determined unconstitutional, only that provision shall be stricken and the remaining provisions shall remain in full force and effect. (Ord. #92-6, July 1992)

8-214. Emergency powers. The Mayor of Humboldt is hereby granted emergency powers to suspend the license of a business establishment which sells intoxicating liquors. In the event where the laws of the State of Tennessee or the ordinances of the City of Humboldt are or have been violated and city or state charges are pending, and the mayor has reason to believe that further violations may occur before a hearing can be held, then and in that event the mayor is authorized to act immediately to suspend the license of the person or entity for the purpose of preventing any violations or for the purpose of policing any riotous or violent circumstance as determined in the discretion of the mayor. Any person or entity aggrieved by the action of the mayor may demand a hearing before the board of mayor and aldermen within twenty-four (24) hours of the suspension of the license. The board shall take such action as the board determines. Any action or decision is appealable as by law. In the event a hearing is not requested by the licensee within twenty four (24) hours, the mayor shall provide the licensee with five (5) days' notice that the board of mayor and aldermen will hear the charges against the person or establishment with a statement of the charges. In the case of immediate suspension, no sale of intoxicating beverages may be made while the matter is pending. (Ord. #92-6, July 1992)

CHAPTER 3**INTOXICATING LIQUORS--ON PREMISES CONSUMPTION****SECTION**

- 8-301. Consumption of alcoholic beverages on premises.
- 8-302. Privilege tax on retail sale of alcoholic beverages for consumption on premises.
- 8-303. Annual privilege tax to be paid to the city clerk.
- 8-304. Concurred sales of liquor by the drink and beer.
- 8-305. Advertisement of alcoholic beverages.
- 8-306. Opt out provision for extended hours of sale.

8-301. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Humboldt, Tennessee. It is the intent of the mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Humboldt, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #2008-06, Dec. 2008)

8-302. Privilege tax on retail sale of alcoholic beverages for consumption on premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Humboldt General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Humboldt on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2008-06, Dec. 2008)

8-303. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises of the City of Humboldt, Tennessee shall remit annually to the city clerk the appropriate tax described in § 8-107. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #2008-06, Dec. 2008)

8-304. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell liquor by the drink from the Alcoholic Beverage Commission (ABC) under the authority of Tennessee Code Annotated, title 57, chapter 4, shall qualify to receive a beer permit from the city, provided that the ABC liquor by the drink permit holder apply for a beer permit, and meet the qualifications, for a beer permit contained in § 8-204 of this title. (as added by Ord. #2008-06, Dec. 2008)

8-305. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2008-06, Dec. 2008)

8-306. Opt out provision for extended hours of sale. Under Tennessee Code Annotated, § 57-4-203(d)(5), the Alcoholic Beverage Commission (ABC) is authorized to extend the hours of sales in jurisdictions that have approved the sale of liquor by the drink, but under that statute municipalities that have approved the sale of liquor by the drink have the authority to opt out of any such extension of hours by the ABC, by the passage of a resolution. (as added by Ord. #2008-06, Dec. 2008)