

## TITLE 8

### ALCOHOLIC BEVERAGES<sup>1</sup>

#### CHAPTER

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#### CHAPTER 1

#### IN GENERAL

##### Section

- 8-101. Intoxication Liquors Prohibited; Exception.  
 8-102. Public Intoxication.  
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**8-101. Intoxication Liquors Prohibited; Exception.** 1. As used in this section, the words, "intoxication liquor" shall be construed to include whiskey, wine, "homebrew," "moonshine" and other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than eight (8) per cent of alcohol by weight.

2. It shall be unlawful for any person to manufacture or attempt to manufacture, receive, possess, store, transport, sell or attempt to sell or furnish any intoxicating liquor within the city.

3. Nothing in subsection (b) shall make it unlawful:

a. For any priest or minister of any religious denomination or sect to receive and possess wines for sacramental purposes or for any common or other carrier to ship or transport wine to any priest or minister for such purposes.

b. For any common carrier to transport intoxication liquor through the city when the carrier has a valid bill of lading for the intoxication liquor which is consigned from and addressed to persons located outside the city in areas where the possession of intoxicating liquor has been legalized. (Code 1959, 2-1012-103) (Ordinance #2019-02, March 2019)

**8-102. Public Intoxication.** It shall be unlawful for any person to be intoxicated in a public place. (Code 1959,2-301)

**8-103. Reserved.**

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<sup>1</sup>State law reference

Tennessee Code Annotated, Title 57.

## CHAPTER 2

### BEER

#### Section

8-201. Possession and Sale Lawful, Subject to State Law and This Article.

8-202. Consumption or Possession in Public Places.

8-203. Privilege License Required.

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**8-201. Possession and Sale Lawful, Subject to State Law and This Article.** The transportation, storage, sale, distribution, possession or manufacture of beer or ale of an alcoholic content of not more than eight (8) per cent by weight within the city shall be lawful, but subject to the regulations prescribed in this article. (Code 1959,2-201) (Ordinance #2019-02, March 2019)

**8-202. Consumption or Possession in Public Places.** It shall be unlawful for any person to drink or consume, or to have an open can or bottle of beer, on the public streets, alleys, avenues, highways, sidewalks, public parks, public school grounds or any other public place within the city unless the premises has a beer permit issued pursuant to this division. (Code 1959,2-303)

**8-203. Privilege License Required.** It shall be unlawful for any person to sell, store or manufacture beer or other beverage subject to this division without first obtaining a privilege license therefore as required by section 17-1. (Code 1959,2-203)

**8-204. Hours of Sale** It shall be unlawful for any person to sell or distribute any beer or other beverage subject to this division within the city between the hours of 3:00 am and 8:00 am on weekdays or 1:00 am and 10:00 am on Sundays. (Code 1959,2-208) (Ordinance #2019-02, March 2019)

**8-205. Wholesale Beer Tax.** The recorder shall collect for the city the seventeen (17) per cent wholesale beer tax levied by the Wholesale Beer Tax Act as set out in Chapter 3 of Title 57, Tennessee Code Annotated. (Code 1959, 6-401) State law reference - Wholesale beer tax, T.C.A., 57-301-et seq.

**8-206. Reserved.**

\*State law reference - Beer and alcoholic beverage of less than five per cent, T.C.A. 57-201 et esq.

## CHAPTER 3

### BEER BOARD

#### Section

8-301. Created; Composition; Appointment of Members.

8-302. Qualifications of Members.

8-303. Terms of Members.

8-304. Filling Vacancies.

8-305. Organization; Chairman.

8-306. Meetings.

8-307. Quorum.

8-308. Reserved.

**8-301. Created; Composition; Appointment of Members.** There is hereby created a board, to be known as the Beer Board of the City of Newport, consisting of three (3) members appointed by the Board of Mayor and Aldermen. (Code 1959, 2-202)

**8-302. Qualifications of Members.** No person shall be eligible for membership on the Beer Board unless he shall have been a resident and taxpayer of the City of Newport for at least one (1) year next preceding the date of his appointment, shall be at least twenty-one (21) years of age and shall be a resident citizen of the United States. (Code 1959, 2-202)

**8-303. Terms of Members.** All members of the Beer Board shall serve and hold office for a term of four (4) years and until their successors are appointed and qualified. The members appointed by the mayor and approved by the Board of Aldermen shall be in staggered terms so at least one member's term expires each year.

Each existing member shall stagger their term as the first member up for appointment shall serve and hold a two (2) year term, the second member up for appointment shall serve and hold a three (3) year term and the third member up for appointment shall serve and hold a four (4) year term (Code 1959, 2-202) (Ordinance #2018-15)

**8-304. Filing Vacancies.** When any vacancy occurs in the Beer Board by reason of death, resignation or removal of a member or other cause, the vacancy shall be filled by an appointment made by the Board of Mayor and Aldermen at its next succeeding regular meeting after the vacancy occurs, or as soon thereafter as is reasonably practicable. (Code 1959,2-202)

**8-305. Organization; Chairman.** Within ten (10) days after their appointment, the members of the Beer Board shall hold a meeting for the purpose of effecting the organization of the Beer Board. The Beer Board shall select one of its numbers to act as chairman. The chairman shall preside at all meetings of the Beer Board and shall keep a detailed and accurate record of all actions taken by the Beer Board. (Code 1959,2-202)

**8-306. Meetings.** Meetings of the Beer Board shall be held on the first Tuesday of each month or upon the call of its chairman, when necessary and proper to effectually carry out the provision of this article. (Ordinance #2014-03, May 2014)

**8-307. Quorum.** At all meetings of the Beer Board, a majority shall constitute a quorum and the Beer Board shall act only by vote of a majority of all members. (Code 1959,2-202)

**8-308. Reserved.**

## CHAPTER 4

### PERMITS

#### Section

- 8-401. Permit Required for Engaging in Beer Business.
- 8-402. Application.
- 8-403. Limitation on Number of Beer Permits Authorized to be Issue.
- 8-404. Locations Ineligible for Permit.
- 8-405. Issuance; Contents.
- 8-406. Duration of Permit.
- 8-407. Scope of Permit: Bond.
- 8-408. Restrictions on Signs.
- 8-409. Grounds for Revocation; Unlawful Acts.
- 8-410. Suspension or Revocation; Grounds
- 8-411. Special Events Permits.
- 8-412. Outdoor Serving Area
- 8-413. Reserved

**8-401. 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 accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of cash or check made payable to the City of Newport. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this.

a) Privilege tax. There is hereby imposed in 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, distrusting, storage or manufacture of beer shall remit the tax on January 1, to the City of Newport, Tennessee. If said privilege tax is paid after January 1 but before January 10, penalty of fifty dollars (\$50) shall be charged for each successive day the tax is not paid. If said privilege tax is not paid on or before January 10, the beer permit issued to said person, firm, corporation, joint stock company, syndicate or association shall be void, with all remaining beer removed from the business property, and said permit holder shall have to apply for a new beer permit. At that 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 prorated basis for each month or portion thereof remaining until the next payment date. (Ordinance #2014-03, May 2014) (Ordinance #2022-07, May 2022)

b) Civil penalty in lieu if suspension. The Beer Board may, at any time it imposes a revocation or suspension offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or 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.

**8-402. Application.**

- a) Each applicant for a permit required by this division shall submit a written application which shall establish the following:
- 1) That if the applicant is a firm or corporation, it is authorized to conduct business in the state of Tennessee
  - 2) That the applicant has not been convicted of any violation of the laws of the state prohibiting the possession, sale, manufacture or transportation of intoxicating liquor or any other crime involving moral turpitude within the past ten (10) years.
  - 3) That, in the contemplated place of business, proper sanitary facilities are available.
  - 4) That the contemplated place of business is so located as not to likely cause congestion of traffic or interference with schools or churches or interfere with the public health, safety and morals.
  - 5) That the applicant is of good character and repute.
  - 6) That the applicant is the owner or a stockholder, if the business is a firm or corporation, and whether a wholesale or retail sale or distribution is contemplated.
- b) Each application for a permit required by this division shall be filed with the chairman of the Beer Board, shall at all times be kept on file by the Beer Board and shall be open to inspection by the general public at all reasonable times.
- c) Any person making any false statement in his application for a permit required by this division shall forfeit his permit and shall not be eligible to receive another permit by this division for a period of ten (10) years thereafter.
- d) Each application for a permit required by this division shall be carefully examined by the Beer Board and a complete record of its action thereon shall be kept in writing as a part of the regular proceedings of the Beer Board. (Code 1959,2-206)
- e) Each applicant will be required to have a TBI background check prior to the meeting. The cost of the background check will be paid for by the applicant to the city with the application. The background fee is non-refundable. (Ordinance #2014-03, May 2014)
- f) A temporary permit may be issued by the City Recorder and Beer Board Chairman to allow the continued sale of alcoholic beverages at a location which presently has a valid permit. A temporary permit may be issued in order to allow a new applicant to be administratively processed and considered by the Beer Board. The applicant for a temporary permit shall meet all requirements set for the in these ordinance and the temporary permit shall not be issued for more than 40 days and regardless of stated ending date, the temporary permit ends the date the Beer Board rules on the permanent beer sales permit. The non-refundable application fee for a temporary permit is in the amount of fifty dollars (\$50.00) (Ordinance #2014-03, May 2014)

**8-403. Limitation on Number of Beer Permits Authorized to be Issued.** The Beer Board is expressly prohibited from issuing any permit required by this division when the number of existing, currently effective beer permits for on premises consumption in the city equals one (1) for each two hundred seventy five (275) inhabitants of the city according to the latest federal census. Any beer permit issued in violation of this section shall be null and void. (Code 1959, 2-204)

Beer permit issued for "Off Premises Consumption" is not governed by the limitations of this section. (Ordinance #2007-19, May 2007)

**8-404. Locations Ineligible for Permit.** No beer permit for on premises consumption shall be issued to any person to sell or distribute beer or other beverage regulated by this division at any location which is situated closer than three hundred and fifty (350) feet from premises (from door to door) upon which is located a church or other place of public worship, or upon which is located a school. Any permit issued pursuant to this division in violation of this section shall be null and void. (Code 1959,2-205)

Beer permit issued for "Off Premises Consumption" is not governed by the limitations of this section.

**8-405. Issuance; Contents.** Upon favorable action by the Beer Board on any application submitted to it for permit required by this division, the permit shall be issued to applicant. The permit shall contain the name of the applicant, the type of beer business authorized, the location of the premises where the business is authorized, the date of issuance, the signature of the chairman of the Beer Board and such reasonable conditions or restrictions as the Beer Board may direct. (Code 1959,2-207)

**8-406. Duration of Permit.** Any permit issued by the Beer Board pursuant to this division which is not utilized within a period of fifteen (15) days and then thereafter continuously so used, for the purpose for which it was issued shall lapse and become null and void; otherwise, it shall remain in full force and effect until its revocation by the Beer Board in the manner prescribed in this division. (Code 1959, 2-207)

**8-407. Scope of Permit: Bond.** A permit issued pursuant to this division shall entitle the permittee, upon his payment of all applicable privilege taxes and conditioned upon his continuing to pay the applicable privilege taxes and any fines assessed against him for violations of this chapter, to obtain from the recorder the privilege license required by this article. (Code 1959,2-207)

**8-408. Restrictions on Signs.** It shall be unlawful for any person holding a beer permit issued to this division to hang or maintain any sign advertising beer so that the sign extends perpendicularly over any street or sidewalk. No person holding a beer permit issued pursuant to this division shall maintain outside or window beer signs with a combined total area exceeding six (6) square feet. (Code 1959,2-209)

**8-409. Grounds for Revocation; Unlawful Acts.** It shall be unlawful and grounds for revocation of a permit issued pursuant to this division for any permittee under this division to do, permit or suffer any of the following acts:

- a) To make or permit to be sales or distribution of beer to persons under twenty-one (21) years of age
- b) To employ directly in the sale or distribution of beverages subject to this article or to permit persons under twenty-one (21) years of age to loiter on the premises
- c) To sell or distribute beverages subject to this division to intoxicated persons or under the influence of intoxicating beverages
- d) To sell or distribute beverages subject to this division to persons who are feeble-minded, insane or otherwise mentally incapacitated
- e) To fail to provide proper sanitary facilities

- f) To fail to provide unobstructed visibility, except for hotels and incorporated clubs and lodges, in the front window
- g) To sell or distribute beverage subject to this division at any place where pool or billiards is played unless the sale, distribution and consumption of beverages is made in the front of the room or place and where a solid partition or wall separates the place from the pool or billiard parlor (Ordinance #2014-03, May 2014)
- h) To sell or distribute beverages subject to this division at any place where gambling is allowed or permitted
- i) To allow loud, unusual or obnoxious noises or disorderly conduct on his premises
- j) To employ any person who has been convicted of any violation of state statutes prohibiting the possession, sale, manufacture or transportation of intoxicating liquors or any other crime involving moral turpitude within the past ten (10) years
- k) To tolerate within his premises any intoxicating liquor as defined in this chapter
- l) To otherwise violate any provision of this chapter or any reasonable condition or restriction written into his permit by the Beer Board (Code 1959,2-210)

**8-410. Suspension or Revocation; Grounds.**

- a) Complaints brought for the purpose of suspending or revoking a permit issued pursuant to this division shall be made in writing and filed with the chairman of the Beer Board, who shall thereupon give or cause to be given written notice, accompanied by a copy of the written complaint, commanding the permittee under this division to appear, at a time and place designated in the notice, before the Beer Board and show cause why the permit issued pursuant to this division should not be suspended or revoked. The notice shall be served either by registered letter or by any police officer in the city at least ten (10) days prior to the date of the hearing when the permittee is cited to appear. On the specified date, the Beer Board shall publicly hear and determine the nature and merits of the complaint and, for this purpose, the chairman of the Beer Board is authorized to compel the attendance of witnesses by subpoena. After the hearing, the Beer Board may for proper cause suspend or revoke any permit issued pursuant to this division.
- b) Upon final hearing and determination by the Beer Board, either party may remove the cause by certiorari to the next term of the circuit court of the county. (Code 1959,2-11)

**8-411. Special Events Permit.**

- a) In addition to the off-premises and on-premises permits provided for in this article, the Beer Board shall have the authority to issue special event permits for the sale, storage, dispensing, serving, distribution and/or manufacture of beer in the city for periods not to exceed a total of 10 days during a calendar year. A special event permit may be issued by the Beer Board for scheduled sporting, recreation, amusement, dining, entertainment and other similar events and activities and shall specify with reasonable particularity the premises on which the permit shall be valid and the time or times during which the permit shall be valid. Special event permits shall be issued upon the same conditions governing other permits and the Beer Board shall determine and specify the terms and conditions for issuance of each special event permit. Special event permits may be issued for on-premises consumption only, but no such permit shall allow the sale, storage, dispensing, serving, distribution, or manufacture of beer on publicly owned or controlled property, or on public right-of-way, except as may be specifically authorized by the city council from time to time.



b) 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 accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00) for a one (1) day event or five hundred dollars (\$500) for a three (3) day or more days' event. Said fee shall be in the form of cash or check made payable to the City of Newport. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this.

c) The Beer Board may issue a special event permit of indefinite duration for scheduled events and such a permit may authorize the sale, storage, dispensing, serving, distribution and/or manufacture of beer for periods not to exceed a total of 10 days during a calendar year.

d) The term of a special event permit issued for a reoccurring event may be extended by the Beer Board for successive additional terms, not to exceed one year each, upon application of the holder and a showing satisfactory to the Beer Board that: (1) there has been no substantial change in status of the licensed premises or the eligibility of the holder since the permit was issued; (2) extending the term of the permit would not be detrimental to public health, safety or welfare; and (3) all applicable licenses have been obtained and fees paid. Such an application shall be filed with the chairman of the Beer Board prior to the expiration of the permit and at least 30 days prior to its consideration by the Beer Board. (Ordinance #2014-03, May 2014)

#### **Section 8-412: Outdoor Serving Area**

“Outdoor Serving Area” is defined as a patio, deck, courtyard, or other outdoor area where permitted establishment provides service where the outdoor serving area is (1) contiguous to the exterior of the building in which the business is located, (2) operated and controlled by the business, and (3) fenced or surrounded on all sides except for designated entrances and exits.

- 1) An outdoor serving area may not include all or any part of an area otherwise used by the business or by the public for parking in areas within the city zoned C-1, C-2, and C-3 (pedestrian commercial district).
- 2) A permittee having this category of license shall be allowed to sell and serve on outdoor serving area, for which access is provided only by going through the interior of the building.
- 3) The outdoor serving area shall be closed by a privacy fence, a minimum of six (6) feet in height, which obstructs normal walking access to the outdoor serving area, except by entering through the interior of the building.
- 4) The privacy fence shall have at least one (1) emergency exit, to be opened only on the event of an emergency and so marked, which will emit an audible sound, such as a bell, siren or other like sound, when the emergency exit is opened. Additional such exits may be required depending on the size of the fence area, as specified in the City of Newport Fire Protection Ordinance.
- 5) A permittee having a minimum of forty (40) seats in the interior of the building under permanent roof and enclosed on all sides. The outdoor serving area shall not exceed the interior of number of seating.

Non-complying issue shall be corrected if change of owner of business. (Ordinance #2017-15, September 2017)

- 6) Outdoor Serving Area restrictions in the city zoned C-1 area:

- a) The fencing or surrounding barrier need not be permanent but must consist of a barrier not less than forty eight (48) inches high and must be constructed of a substantial material

without gaps or spaces that would allow ingress and egress of the premises except through designated entrances and exits.

- b) An outdoor serving area may not include all or any part of an area otherwise used by business or by the public for parking.
- c) Signage that establishes a line of demarcation where alcohol is no longer permitted shall be placed at each ingress/egress point to clearly establish those boundaries. (Ordinance #2023-04, April 2023)

**8-413. Reserved.**

## CHAPTERS 5

### SALES OF INTOXICATION LIQUOR FOR CONSUMPTION ON PREMISES

#### **Section**

- 8-501. Subject to Certain Statutes and Restrictions.
- 8-502. Terms Defined.
- 8-503. Intoxicating Liquors for Consumption On Premises.
- 8-504. Regulations and Prohibited Practices.
- 8-505. Revocation of Beer Permit Reported To ABC.
- 8-506. Prohibited Sexual or Pornographic Conduct.
- 8-507. Privilege Taxes.
- 8-508. Violations; Penalty.
- 8-509. Chapter Cumulative and Supplemental.
- 8-510. Reserved.

**8-501. Subject to Certain Statutes and Restrictions.** (1) The general provisions of the state law relating to intoxicating liquors contained in Tennessee Code Annotated, § 57-4-101, et seq., are hereby adopted as part of this chapter and by reference are fully incorporated in this chapter.

(2) Various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and Department of Revenue regarding the sale of intoxicating liquors for consumption on premises are hereby adopted as a part of this chapter and by reference are fully incorporated herein.

(3) It shall be unlawful to sell wine and other alcoholic beverages as defined in Tennessee Code Annotated, § 57-4-102 to be consumed on the premises of any hotel, commercial passenger boat company, restaurant, commercial airlines, passenger trains, premiere type tourist resort or club, convention center, historic performing arts center, permanently constructed facility within an urban park, any historic interpretive center, community theater, historic mansion house site, any restaurant in the terminal building of a commercial air carrier airport, any zoological institution, any museum, within the corporate limits of the City of Newport, Tennessee, except as provided by Tennessee Code Annotated, title 57, and by the rules and regulations promulgate thereunder, and as provided in this chapter. (Ord. #\_, Dec. 2004)

**8-502. Terms Defined.** The definitions set forth in Tennessee Code Annotated, § 57-4102 are hereby incorporated herein as if copied verbatim in their entirety. (Ord. #\_, Dec. 2004)

**8-503. Intoxicating Liquors for Consumption On Premises.** (1) No business which sells intoxicating liquors for consumption on the premises shall be permitted in a location which is zoned other than C-2, C-3, C-4. In addition, 8-10 no such business shall be located close to a church (excluding churches in C-2 zone), or school, or part-time than the minimum distance of separation required for the zone in which the building is located, measured by the length of a straight line drawn from the closest points of the church or school building or park boundary and

the building proposed for the sale of intoxicating liquors for consumption on premises. Said minimum distances of separation shall be as follows:

<u>Zone</u>	<u>School</u>	<u>Church</u>	<u>Park</u>
C-1	200'	200'	200'
C-2	200'	200'	200'
C-3	200'	200'	200'

For the purpose of this section the terms "church" and "church building" shall not include any church building or building used for church purposes which is located on privately owned real property. "School" shall mean any primary or secondary public or private school building which is used for school purposes, and shall not include a vocational school or university. "Park" shall mean municipal property designated public parks and maintained as such by the municipality.

(2) A licensee holding a license for selling intoxicating liquors for consumption on the premises of a restaurant shall illustrate that he has adequate parking to provide one (1) parking space for an automobile for each two (2) seats in his place of business. (Ord. #\_, Dec. 2004)

**8-504. Regulations and Prohibited Practices.** It shall be unlawful for any person, firm or corporation holding a license to sell intoxicating liquors for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, §§ 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety. (Ord. #\_, Dec. 2004)

**8-505. Revocation of Beer Permit Reported to ABC.** When any person, firm or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the alcoholic beverage commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the person, Beer Board, or city council is considering the suspension or revocation of such beer permit, consideration shall also be given to suspending the licensee's license for sale of intoxication liquors for consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said person, Beer Board, or city council shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-204. (Ord. #\_, Dec. 2004)

**8-506. Prohibited Sexual or Pornographic Conduct.** Tennessee Code Annotated, § 57-4-204 is incorporated herein as if copied verbatim in its entirety. The City of Newport Police Department is hereby authorized and directed to investigate and police the places of business holding a license to sell intoxicating liquors for consumption on premises and shall report violations to the alcoholic beverage commission as authorized, by Tennessee Code Annotated, § 57-4-204(e). (Ord. #\_, Dec. 2004)

**8-507. Privilege Taxes.** (1) Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2) the City of Newport hereby levies the following taxes for the privilege of selling intoxicating liquors for consumption on premises, which taxes shall be for municipal purposes to be paid annually to-wit:

(a) Private club	\$300.00
(b) Hotel and motel	\$1,000.00
(c) Convention center	\$500.00
(d) Premier type tourist resort	\$1,500.00
(e) Restaurant, according to seating capacity, on licensed premises:	
(i) 75 through 125 seats	\$600.00
(ii) 126 through 175 seats	\$750.00
(iii) 176 through 225 seats	\$800.00
(iv) 226 through 275 seats	\$900.00
(v) 276 seats and over	\$1,000.00

If a restaurant is licensed by the commission to sell wine only under Tennessee Code Annotated, § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified in this subdivision (b)(1).

(a) Historic performing arts center	\$300.00
(b) Urban park center	\$500.00
(c) Commercial passenger boat company	\$750.00
(d) Historic mansion house site	\$300.00
(e) Historic interpretive center	\$300.00
(f) Community theater	\$300.00
(g) Zoological institution	\$300.00
(h) Museum	\$300.00
(i) Establishment in a terminal building of a commercial air traffic airport	\$1,000.00
(j) Commercial airline travel club	\$500.00

The foregoing taxes shall be payable on the date the license is issued by the ABC and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time, a full year's taxes shall then be due and immediately payable.

(2) In addition to the privilege taxes levied in subsection (1), there further levied a tax equal to the rate of fifteen percent (15%) of the sales price of all alcoholic beverages sold for consumption on the premises the tax to be computed on the gross sales of alcoholic beverages for consumption on the premises for the purpose of remitting the tax due the state, and to include each and every retail thereof.

(3) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit, or political organization selling alcoholic beverages at retail pursuant to a special occasion license.

(4) When any licensee shall fail to pay the initial privilege tax or any annual taxes due each October 1, there shall be imposed a penalty in the amount of five percent (5%) from each month of delinquency or part thereof not to exceed a total of twenty-five percent (25%), provided however each licensee shall have thirty (30) days from the due date before any penalty starts to accrue, interest on the taxes shall accrue at the rate of twelve percent (12%) per annum until paid.

(5) All penalties imposed by this section and taxes provided by this section may be collected as other taxes payable to the city.

(6) Should the licensee also hold a beer permit issued by the city, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit. (Ord. #\_, Dec. 2004)

**8-508. Violations; Penalty.** Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission. (Ord. #\_, Dec. 2004)

**8-509. Chapter Cumulative and Supplemental.** That the provisions of this chapter shall be cumulative and supplemental to any other ordinance or law now existing or hereafter enacted; and it is not the intent of the Board of Mayor and Aldermen by enacting this chapter to repeal by implication any other ordinance or law not existing or hereafter enacted. (Ord. #\_, Dec. 2004)

**8-510. Reserved.**

## CHAPTER 6

### SALES OF INTOXICATION LIQUOR FOR LICENSED LIQUOR STORES

#### Section

- 8-601. Subject to Regulation.
- 8-602. Terms Defined.
- 8-603. Manufacture prohibited. Wholesale business prohibited.
- 8-604. Requirements for applicants who seek certification from board. Certificate required. Contents - Exceptions.
- 8-605. Miscellaneous restrictions on license holders and their employees. Location restrictions on retailers; Applications for transfer
- 8-606. Number of Retailers.
- 8-607. Bonds of Retailers.
- 8-608. License to be Displayed. Transfer of Licenses Prohibited; Term of Licenses; Use of Agents.
- 8-609. Expiration and Renewal of Licenses. New License After Revocation.
- 8-610. Federal License, Effect of.
- 8-611. Inspection Fee.
- 8-612. Regulations for Purchase and Sale of Intoxication Liquors. Retailers Not to Solicit Orders or Make Deliveries off Their Premises.
- 8-613. Regulation of Retailers.
- 8-614. Recorder May Examine Books, Papers, ect. of Dealers.
- 8-615. violations.
- 8-616. Public Drinking and Public Display of Alcoholic Beverage Prohibited.
- 8-617. Charter Not Applicable to Beer.
- 8-618. Reserved.

**8-601. Subject to Regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Title 57, Chapter 1, Tennessee Code Annotated, and by rules and regulations promulgated there under, and as provided in this chapter. (Ord. #\_, August 1983)

- 8-602. Terms Defined.** Whenever used herein unless the context requires otherwise:
- 1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5% )by weight, or less.
  - 2) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.
  - 3) "Retail sale" or " sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.
  - 4) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

- 5) "Manufacturer" means and includes a distiller, vintner, and rectifier. "Manufacture" means and includes distilling, rectifying, and operating a winery.
- 6) "Wholesale sale" or "sale at "wholesale" means a sale to any person for purposes of resale.
- 7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Title 57, Tennessee Code Annotated.
- 8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, and sparkling and fortified wine of alcoholic content not to exceed twenty-one percent (21 %) by volume. No other product shall be called "wine unless designated by appropriate prefixed descriptive of the fruit or other product from which the same was predominately produced, or an artificial or imitation wine.
- 9) The word "gallon" or "gallons, wherever used herein, shall be construed to mean a wine gallon or wine gallons, or one hundred and twenty-eight (128) ounces. The word "quart" whenever used herein will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint," wherever used, shall be construed to mean one-eighth (1/8) of a wine gallon.
- 10) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.
- 11) The term "federal license" as used herein, shall not mean tax receptor permit.
- 12) The word "board" as used herein shall mean the Board of Mayor and Aldermen of the City of Newport.
- 13) The word "recorder" as used here in shall refer to the city recorder of the City of Newport.
- 14) The word "city" shall refer to the City of Newport.
- 15) "Commission" means the Tennessee Alcoholic Beverage Commission. (Ord. #\_, August 1983)

**8-603. Manufacture Prohibited. Wholesale Business Prohibited.** The manufacture of alcoholic beverages is prohibited within the corporate limits of the City of Newport. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of the City of Newport. (Ord. #\_, August 1983)

**8-604. Requirements for Applicants Who Seek Certification From Board. Certificate Required. Contents - Exceptions.**

- a) As a condition precedent to the issuance of a license under T.C.A. § 57-3-204, every applicant for a license under said section shall submit with his application to the alcoholic beverage commission a certificate signed by the mayor and a majority of the members of the Board of Aldermen of the City of Newport.
- b) Said certificate must state: (1) That the applicant or applicants who are to be in actual charge of said business are of good moral character and are personally known to the official or officials signing the certificate, and, if a corporation, that the executive officers or those in control are of good moral character and personally known to the official or officials signing said certificate, or that such official or officials have made careful investigation of the applicant's general character and from such investigation it is found to be good, and that in the official's or officials' opinion the applicant will refrain from a violation of § 57-3-101 - 57-3-504, Tennessee Code Annotated,



and is entitled to the license applied for;(2) That the applicant or applicants have secured a location for said business which complies with all restrictions or any local law, ordinance, or resolution, duly adopted by the local authorities as to location within the city or county; and (3)That the applicant or applicants have complied with any local law, ordinance, or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

c) Each applicant must submit a written application to the City Recorder along with an investigation fee of Five Hundred and 00/100 Dollars (\$500.00) and the City Recorder is to refer the application to the City Attorney for review and the Chief of Police for investigation who must submit written findings to the Board within ten (10) days of the date said application is filed. All but One Hundred Dollars (\$100.00) of said fee shall be refunded to those applicants which are denied.

d) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court of Cocke County within sixty (60) days of the denial.

e) The requirements imposed by this section shall not be applicable to those holding retail r licenses on the date of enactment. (Ord. #\_, August 1983)

**8-605. Miscellaneous Restrictions on License Holders and Their Employees. Location Restrictions on Retailers; Applications For Transfer.**

1) The license fee or every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this chapter. In addition to all other penalties, a violation of this section shall authorize and require the revocation of the license, the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another.

2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county. It shall be unlawful for any such person to have any interest in such retail business, directly, or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business

3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he is connected shall immediately discharge him.

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

5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person,

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

7) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States, the State of Tennessee, and Cocke County.

8) No retailer or any employee thereof, engaged in the sale of alcoholic beverages shall be person under the legal drinking age as established by the State of Tennessee; and it shall be unlawful for any retailer to employ any person under the legal drinking age of the State of Tennessee for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

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

10) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

11) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter.

12) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the city, except by a sign approved by the city recorder, in letters not larger than twelve (12) 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. The lettering on the approved sign shall not be artificially illuminated, other than by exterior flood or spot lights. Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

13) If a licensee is a corporation, then in addition to the other provisions of this ordinance: (a) No person owning stock in or who is an officer or director in such corporate licensee 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 beverages in the state or in any other place; (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 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.

14) The location of retail liquor stores shall be limited to business zones described in the zoning ordinance of the City of Newport.

The location of said store shall be approved by a majority of the board; but a liquor store shall not be located within five hundred (500) feet of the property line upon which is erected any church edifice, school building, public park, playground, as measured in a direct line from the center of the front door of the place of business. All retail sales shall be confined to the premises of the licensee. No liquor store shall be located in the city on any premises above the ground floor or in any basement. 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 of a hotel or motel may maintain an additional entrance into such lobby as long as such lobby is open to the public.

A retailer's license shall not be valid except at the premises recited in the application, and any change of location without the approval of the board shall be a cause for revocation of the license.

Whenever an existing licensee wishes to move the location of his retail liquor business, the Board shall apply the following criteria following the receipt of a written application by the licensee setting out all relevant information regarding the new location and the reasons justifying the relocation, to-wit:

- (a) The new location must comply with all zoning requirements of the city.
- (b) The applicant for transfer must pay a fee of Two Hundred Fifty and 00/100 Dollar (\$250.00) to the City Recorder who will investigate the new location and advise the Board within thirty (30) days of the proposed location's suitability.
- (c) The physical transfer of the store must be completed within ninety (90) days after the transfer is granted. Under exceptional and unusual circumstances, the applicant may request an additional thirty (30) days time.
- (d) The approval of all applications for the transfer of a retail liquor license shall be within the discretion of the Board.
- (e) Circumstances which may be considered by the Board include:
  - i. Physical destruction of the premises not the fault of the licensee.
  - ii. Bona fide termination of the lease.
  - iii. Eminent domain or condemnation proceedings causing serious disruption of the business.
  - iv. Substantial changes in traffic patterns surrounding the existing store.
  - v. Situations which on the discretion of the Board are determined to be a material change of circumstances.
- (f) The proposed new location must comply with such statutes regulations, and ordinances for new licenses as are determined to be applicable and material in the discretion of the Board. (Ord.#\_, August 1983)

**8-606. Number of Retailers.** The number and location of all retail licensees shall be subject to the sound discretion of the Mayor and Board. (Ord. #\_, August 1983)

**8-607. Bonds of Retailers.** Bonds required here in shall be executed by a surety company, duly authorized and qualified to do business in Tennessee. Bonds of retailers shall be One Thousand and 00/100 Dollars (\$1,000.00). Said bonds shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (Ord. #\_, August 1983)

**8-608. License to be Displayed. Transfer of Licenses Prohibited; Term of Licenses; Use of Agents.** Persons granted a license to carry on the business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.

The holder of a license may not sell, assign, or transfer such license to any person, and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (Ord. #\_, August 1983)

**8-609. Expiration and Renewal of Licenses. New License After Revocation.** Licenses issued under this chapter shall expire at the end of each calendar year. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1 ) year from the date of said revocation becomes final and effective. (Ord. #\_, August 1983)

**8-610. Federal License, Effect Of.** The possession of a federal license to sell alcoholic beverages without the corresponding requisite state license shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (Ord. #\_, August 1983)

**8-611. Inspection Fee.** There is hereby imposed an inspection fee of eight percent (8%) of the wholesale price of alcoholic beverages by licensees under this chapter, payable to the city by each wholesaler. The payment of said fee shall be accompanied by a report of gross sales of said beverages for each calendar month. Failure of the wholesaler to pay said fee and make said report accurately within the time prescribed by council may be cause for appropriate action. (Ord. #\_, August 1983)

**8-612. Regulations For Purchase and Sale of Intoxication Liquors. Retailers Not to Solicit Orders or Make Deliveries Off Their Premises.**

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on.

(4) No retail store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets such retail store may maintain a door opening on each of the public streets. Provided, however, that any salesroom adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public, and provided further-, that every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances.

(5) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.

(6) No alcoholic beverages shall be sold for consumption on the premises of the seller.

(7) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and curb service shall not be permitted. No sales shall be made through drive-in windows.

(8) 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.

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

(10) No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverage at the residence or place 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 an order from any licensed retailer at the licensed premises. (Ord. #\_, August 1983)

**8-613. Regulation of Retailers.** (1) No retailer shall, directly or indirectly, operate more than one (1) place of business for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend, or give away any alcoholic beverages between 9 o'clock P.M. on Saturday and 9 o'clock A.M. on Monday of each week and between 10 o'clock P.M. and 9 o'clock A.M. Monday through Saturday, prevailing time.

(3) No retailer shall sell, lend, or give away any alcoholic beverages on any day of a municipal, general, or primary election or upon Christmas or Thanksgiving days, or upon Labor Day, New Year's Day, and the Fourth of July, Memorial Day, Good Friday.

(4) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(5) It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under the legal drinking age of the State of Tennessee or to any person who is visibly intoxicated or to any person who is an habitual drunkard (any person under the legal drinking age of the State of Tennessee or visibly intoxicated or an habitual drunkard being hereinafter in this section referred to as "such person "). It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's

liquor store or any part of the licensee's premises adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee, or from any other person, and the burden of ascertaining the age of such person shall be on the licensee. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to such person. (Ord. #\_, August 1983)

**8-614. Recorder May Examine Books, Papers, Ect. of Dealers.** The recorder is authorize to examine t e books, papers, an records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for a recommendation to the commission to revoke the license. (Ord. #\_, August 1983)

**8-615. Violations.** Any violations of the terms of this chapter shall be punishable by a fine under the general penalty clause for this code. (Ord. #\_, August 1983)

**8-616. Public Drinking and Public Display of Alcoholic Beverage Prohibited.** It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit, or show an unsealed bottle containing any alcoholic beverage in that portion of restaurant or other eating place to which the general public is admitted, or in the parking area of any drive-in restaurant, or on any public street, or sidewalk, or in any public park, playground, auditorium, theater, stadium, school, or school ground or in any other public place. (Ord. #\_, August 1983)

**8-617. Charter Not Applicable to Beer.** No provisions of this chapters all be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five percent (5%) or less, more specifically chapter 2 in this title.

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and shall be fined a minimum of \$10.00and a maximum of \$50.00 for each such violation. Furthermore, any licensee violating any provision of this Ordinance shall be subject to having his license suspended or revoked for such violation as elsewhere herein provided in this Ordinance. (Ord. #\_, August 1983)

**8-618. Reserved.**

## CHAPTER 7

### Wine Sales in Retail Food Stores

#### Section

- 8-701. Application of this chapter.
- 8-702. Definitions.
- 8-703. Adoption of State Law.
- 8-704. Issuance of Retail Food Store Wine License.
- 8-705. Certificate of Compliance.
- 8-706. Issuance of Certificate of Compliance: Appeal.
- 8-707. Issuance, Renewal, Suspension, Termination of Retail Food Store Wine License.
- 8-708. Regulation of Sales.
- 8-709. Reserved.

**8-701. - Application of This Chapter.** This chapter shall apply and be effective immediately upon the passage, pursuant to T.C.A. § 57-3-801, of the referendum authorizing the sale of wine in retail food stores. The application shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of cash or check made payable to the City of Newport. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this. (Ordinance #2016-02, March 2016)

**8-702. - Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory:

(1) "Retail food store" means an establishment that is open to the public that derives at least 20% of its taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in T.C.A. § 67-6-228(a) and has retail floor space of at least 1,200 square feet;

(2) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed 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 predominantly 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. (Ordinance #2016-02, March 2016)

**8-703. - Adoption of State Law.** There is hereby adopted and incorporated herein by reference the applicable statutes on retail food store wine sales, codified in T.C.A. § 57-3-801 et seq. (Ordinance #2016-02, March 2016)

**8-704. - Issuance of Retail Food Store Wine License.** Any person, partnership, limited liability company or corporation desiring to sell wine to patrons or customers within the premises of a retail food store, in sealed packages only, and not for consumption on the premises, shall make application to the alcoholic beverage commission for a retail food store wine license. This application shall comply with all the terms and conditions set forth in T.C.A. § 57-3-801 et seq. (Ordinance #2016-02, March 2016)

**8-705. - Certificate of Compliance.** As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, the mayor or a majority of the city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. An applicant or applicant group for a retail food store wine license shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city administrator may require:

- (1)The name and street address of each person who will be in charge of or in control of the business, and a statement 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-year period immediately preceding the date of the application with the state alcoholic beverage commission and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application;
- (2)The name and address of the proposed retail food store applying for a retail food store wine license, and a statement that the applicant or applicants have secured a location for the business, which complies with all zoning laws of the city;
- (3)That the applicant or applicants have complied with this chapter and the applicable state laws on retail food store wine sales. (Ordinance #2016-02, March 2016)

**8-706. - Issuance of Certificate of Compliance; Appeal.** A failure on the part of the issuing authority to grant or deny the applicant's request for the certificate of compliance within 60 days of the written application shall be deemed a granting of the certificate. If an applicant is denied a certificate of compliance, the applicant may seek review of such denial by instituting an action in Chancery Court within 60 days of the denial. (Ordinance #2016-02, March 2016)

**8-707. - Issuance, Renewal, Suspension, And Termination of Retail Food Store Wine License.** The issuance, renewal, suspension, and termination of retail food store wine licenses and the regulation of and operation by such license holders shall be governed by T.C.A. § 57-3-201 et seq., except where T.C.A. § 57-3-801 et seq. expressly states otherwise. In order to renew a retail food store wine license, the licensee must maintain a minimum of 20% of the taxable sales from the retail of food and food ingredients for human consumption. If a licensee fails to comply with this requirement, the licensee shall have one year to work with the alcoholic beverage commission to create a plan to become compliant. Failure to comply with this



requirement after one year shall result in the retail food store wine license being suspended or revoked by the alcoholic beverage commission. (Ordinance #2016-02, March 2016)

**8-708. - Regulation of Sales.** (a) *Hours of sales on weekdays.* Retail food store wine licensees shall not engage in the sale of wine, except between the hours of 8:00 a.m. and 11:00 p.m. on weekdays and Saturdays.

(b) *Sales on Sundays and holidays.* No retail food store wine licensee shall sell or give away any wine between 11:00 p.m. on Saturday and 8:00 a.m. on the following Monday of each week. No retail food store wine licensee shall sell or give away wine on the following holidays: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

(c) *Sales to minors.* No retail food store wine licensee shall sell or give away wine to a person under 21 years of age, and it shall be unlawful for any such minor to purchase wine. Also, it shall be unlawful for any person to present false evidence that he has attained the age of 21 years.

(d) *Keeping an unsealed bottle or container.* No retail food store wine licensee shall keep, or permit to be kept upon his premises, wine in any unsealed containers or bottles.

(e) *Sales to persons intoxicated.* No retail food store wine licensee shall sell or give away wine to any person who is intoxicated, nor shall any retail food store wine licensee sell or give away wine to any person accompanied by a person who is intoxicated.

(f) *Sales on credit.* No retail food store wine licensee shall sell, deliver, or cause, permit, or procure to be sold or delivered, wine on credit.

(g) *Wine tastings.* No retail food store wine licensee shall conduct tastings of wine on the premises of the retail food store.

(h) *Consumption on premises.* No wine shall be sold for consumption, or consumed, on the premises of the retail food store, except that a retail food store wine licensee may also hold a license to sell alcoholic beverages for consumption on premises pursuant to T.C.A. § 57-4-101 et seq., provided that the premises of the on-premises licensee shall be separate and distinct from the premises of the retail food store and the business of the on-premises licensee shall be operated separately and distinctly from the operation of the business of the retail food store wine licensee.

(i) *Public display and public drinking prohibited.* It shall be unlawful for any person to publicly drink wine or publicly display any bottle or container of wine on any street or sidewalk, on any school ground or in any park, theatre, stadium, or school. (Ordinance #2016-02, March 2016)

**7-709. Reserved.**