

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

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<sup>1</sup>Municipal code references

Drinking beer, etc., on streets, etc.: § 11-101.

Minors in beer places: § 11-102.

Privilege tax for consumption on the premises: title 5, chapter 7.

## State law reference

Tennessee Code Annotated, title 57.

**8-101. 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 Tennessee Code Annotated, title 57, and by rules and regulations promulgated thereunder, and as provided in this chapter. (1968 Code, § 2-101)

**8-102. 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, 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 per cent (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 Tennessee Code Annotated, §§ 57-3-101--57-3-110.

(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, sparkling and fortified wine of an alcoholic content not to exceed twenty-one per cent (21%) 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.

(9) The word "gallon" or "gallons" wherever used herein, shall be construed to mean a wine gallon or wine gallons, of 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 receipt or permit. (1968 Code, § 2-102)

**8-103. Manufacture prohibited.** The manufacture of alcoholic beverages is prohibited within the corporate limits. (1968 Code, § 2-103)

**8-104. Wholesale business prohibited.** No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits. (1968 Code, § 2-104)

**8-105. License required for retail business.** For the retail sale of alcoholic beverages a license may be issued as herein provided. Any person, firm or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the city manager for a retailer's license. The application shall be in writing on forms prescribed and furnished by the city manager. Subject to the issuance of a retail license by the Alcoholic Beverage Commission of the State of Tennessee, a majority of the city council may issue such retailer's license. Such retailer's license shall not be issued unless and until the applicant therefor shall pay to the city recorder a license fee of two hundred and fifty dollars (\$250.00); and no license shall be issued except to individuals who are residents of the State of Tennessee and either have been bona fide residents of the state for at least two (2) years next preceding or who have at any time been residents of the State of Tennessee for at least ten (10) consecutive years. (Ord. #3459, May 2002)

**8-106. Location restrictions on retailers.** No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the city commission, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close proximity of a church, school, or public institution, or otherwise inimical to the public interest. A retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the city manager, unless the new location is approved in writing by the city manager. (1968 Code, § 2-106)

**8-107. Limitation on number of retailers.** No more than seven (7) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1968 Code, § 2-107)

**8-108. Bonds of retailers.** Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee. Bonds of retailers shall be five hundred dollars (\$500.00). Said bonds shall be

conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (1968 Code, § 2-108)

**8-109. Miscellaneous restrictions on license holders and their employees.** (1) 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. 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 manager 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 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.

(8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of twenty-one (21) years, and it shall be unlawful for any retailer to employ any person under twenty-one (21) years of age 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 so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(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. (1968 Code, § 2-109)

**8-110. License to be displayed.** 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. (1968 Code, § 2-110)

**8-111. Transfer of licenses prohibited; term of licenses; use of agents.** The holder of a license may not sell, assign, or transfer such license to any other 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. (1968 Code, § 2-111)

**8-112. Expiration and renewal of licenses.** Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above mentioned license fee. (1968 Code, § 2-112)

**8-113. New license after revocation.** 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 said revocation becomes final and effective. (1968 Code, § 2-113)

**8-114. Federal license, effect of.** The possession of any 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. (1968 Code, § 2-114)

**8-115. Inspection fee.** There is hereby imposed an inspection fee of five per cent (5%) on all wholesale sales of alcoholic beverages to licensees under this chapter. This fee shall be collected by the wholesaler making such sales who shall remit said fees to the city at such times and in such manner as the city manager shall designate accompanied by whatever forms and information he may prescribe. The wholesalers shall be allowed a fee of five per cent (5%) of all sums so collected as compensation for services in collecting and remitting said fee. (1968 Code, § 2-115)

**8-116. Regulations for purchase and sale of intoxicating liquors.**

(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 sales room 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 is not permitted.

(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 pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(10) No advertising is allowed by a licensee, person, firm, corporation, partnership, or any other entity by billboards, displays, posters, or designs intended to advertise any alcoholic beverage within the corporate limits of the City of Columbia, outside the building of a licensee, except that a sign, subject to the approval of the city manager, may be erected upon the property occupied by the licensee. No sign shall exceed the size of 6 foot by 3 foot, and no flashing lights shall be allowed. (1968 Code, § 2-116)

**8-117. Retailers not to solicit orders or make deliveries off their premises.** 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 beverages at the residence 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 an order from any licensed retailer at the licensed premises. (1968 Code, § 2-117)

**8-118. 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 to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend, or give away such beverages to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend, or give away any alcoholic beverages to a person under 21 years of age.

(4) No retailer shall sell, lend, or give away any alcoholic beverages between 11 o'clock p.m. on Saturday and 8 o'clock a.m. on Monday of each week, and between 11 o'clock p.m. and 8 o'clock a.m. Monday through Saturday.

(5) No retailer shall sell, lend, or give away any alcoholic beverages on any day of a general or primary election or upon Christmas or Thanksgiving days.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverage in any unsealed bottles or other unsealed containers. (1968 Code, § 2-118)

**8-119. Failure to pay license or inspection fee, etc.** Whenever any person licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city manager shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (1968 Code, § 2-119)

**8-120. City manager may examine books, papers, etc., of dealers.** The city manager is authorized to examine the books, papers, and 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 of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license. (1968 Code, § 2-120)

**8-121. Violations.** Any violation of the terms of this chapter shall be punishable by a fine under the general penalty clause for this code. In such cases, suspension of the license by the city manager for thirty (30) days shall be mandatory, and in the discretion of the commission may be cause for revocation of said license. (1968 Code, § 2-121)

**8-122. Visible open containers on streets, etc., prohibited.**<sup>1</sup> Visible possession of alcoholic beverage in an unsealed container upon any public street or within any governmental building shall be a violation of this chapter. (1968 Code, § 2-122)

**8-123. Chapter not applicable to beer.** No provision of this chapter shall be considered or construed as in any way modifying, changing or

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<sup>1</sup>Municipal code reference

Drinking beer, etc., on streets, etc.: § 11-101.

restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five (5) per cent or less, more specifically chapter 2 in this title. (1968 Code, § 2-123)

## CHAPTER 2

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

#### SECTION

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- 8-208. Powers and duties of the beer board.
- 8-209. Permit required for engaging in the beer business; term of permit; annual inspections of premises.
- 8-210. Restrictions on granting permits.
- 8-211. Application forms; effect of false statements or misrepresentations therein.
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- 8-217. Further restrictions on the issuance of permits.
- 8-218. Issuance of permits to hotels, clubs, etc.
- 8-219. Sanitation for the premises of the permit holder.
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- 8-221. Investigation of applicants, agents and/or employees.
- 8-222. Prohibited conduct or activities by beer permit holder.
- 8-223. Suspension and revocation of beer permits.
- 8-224. City business license.
- 8-225. Privilege tax.
- 8-226. Notice requesting information.
- 8-227. Penalties for violations.

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<sup>1</sup>State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

8-228. Employees liable for violations.

8-229. Notice to be given of permit suspension or revocation.

8-230. Application fee for sale of beer.

**8-201. Purpose of chapter.** This chapter is adopted to regulate the sale of beer or other beverages of like content as herein defined within the corporate limits of the City of Columbia. (Ord. #1969, Dec. 1993)

**8-202. Beer business subject to regulation.** It shall hereafter be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as provided by the laws of the State of Tennessee or any other beverages of like alcoholic content, within the corporate limits of the City of Columbia, subject to all of the regulations limitations and restrictions hereinafter provided, and subject to the rules and regulations promulgated by authorized public officials or boards. (Ord. #1969, Dec. 1993)

**8-203. "Beer" and "intoxicating liquors" defined.** The term "beer" as used in this chapter shall mean and include all intoxicating beverages such as beers, ales and other fermented liquors having an alcoholic content of not more than five percent (5%) in weight. The term "intoxicating liquor" as used in this chapter shall mean any beverage containing more than five percent (5%) alcoholic strength in weight as set forth in Tennessee Code Annotated, § 52-2-101. (Ord. #1969, Dec. 1993)

**8-204. Beer board established; compensation of members.** There is hereby established a beer board to be composed of five (5) residents of the City of Columbia, over the age of twenty-one (21) years, who shall be appointed by the mayor and approved by the city council. The members of said board shall hold office for one (1) year or until their successors are appointed and qualified. Each member of the board shall receive as compensation the sum of twenty-five dollars (\$25.00) for attendance at each meeting of the board. (Ord. #1969, Dec. 1993, as amended by Ord. #1987, March 1994, and replaced by Ord. #3679, May 2007)

**8-205. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings on the second Wednesday of the month or as set by the beer board. A special meeting of the beer board may be called by its chairman provided he gives reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place. (Ord. #1969, Dec. 1993)

**8-206. Record of beer board proceedings to be kept.** The City Manager of the City of Columbia shall furnish a secretary who shall attend all meetings of the beer board. This secretary shall make a record of the proceedings of the beer board which shall be a public record and shall contain the dates of the meetings; the names of the board members present and absent; in cases of hearings before the beer board, a record of evidence introduced and testimony heard before the board; the provision of each permit issued by the board as to whether it is a permit for sale for off premises consumption or for sale for on premises consumption. The secretary shall also maintain a current list of the names and addresses of all holders of beer permits. (Ord. #1969, Dec. 1993)

**8-207. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. The beer board will consider all written and oral evidence presented in deciding whether or not to issue a permit. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #1969, Dec. 1993)

**8-208. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale and manufacturing of beer within this municipality in accordance with the provisions of this chapter, subject to the provisions of state law.

The beer board is hereby given broad powers of investigation, and it shall have the authority to inspect the premises of any applicant and at all reasonable hours may investigate the premises of all permit holders. (Ord. #1969, Dec. 1993)

**8-209. Permit required for engaging in the beer business; term of permit; annual inspections of premises.** No person shall engage in the storing, selling, distributing or manufacturing of beer or other beverages of like alcoholic content within the corporate limits of the City of Columbia until he shall receive a permit to do so from the beer board of the City of Columbia. The permit shall at all times be subject to all of the limitations and restrictions herein provided. Also, the applicant shall certify that he or she has read and is familiar with the provisions of this chapter and applicable state law.

Permits so issued shall continue in effect so long as the owner and operator of the premises remains the same and the establishment continues to do business; the location of the premises remains the same; the business

continues to be operated under the name identified in the permit application; and all inspections required under this chapter are passed and the annual privilege tax is paid. For the purposes of this chapter, if the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner. A permit holder must return the beer permit to the beer board of the City of Columbia within fifteen (15) days of termination of business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business name. The premises shall be inspected annually by all authorities that inspect for the initial issuance of the permit and the failure to comply with all the terms of such inspections may result in the revocation of the permit; provided, however, nothing contained herein shall be construed to require the periodic renewal of beer permits. (Ord. #1969, Dec. 1993)

**8-210. Restrictions on granting permits.** No permit shall be issued to sell any beverage coming within the provisions of this chapter:

(1) In violation of any provisions of the state law or of this chapter or any amendment thereto.

(2) In violation of the Zoning Ordinance of the City of Columbia.

The judgement of the beer board on such matters shall be final, except as same is subject to review under Tennessee Code Annotated. (Ord. #1969, Dec. 1993)

**8-211. Application forms; effect of false statements or misrepresentations therein.** No permit shall be issued except upon an application in writing submitted to the beer board. The application shall be on proper forms furnished by the city recorder. Any misrepresentation or false statement contained in the application upon which a permit is used shall subject said permit to immediate revocation upon a hearing after notice as provided below, issued upon a proper complaint charging that there has been a misrepresentation or false statement in said application. At such hearing the burden of proof shall be upon the holder of the permit to establish the truth of each statement and representation made in his or her application. Any applicant making a false statement in the application shall forfeit the permit and shall not be eligible to receive any permit for a period of ten (10) years. (Ord. #1969, Dec. 1993, as replaced by Ord. #3679, May 2007)

**8-212. Application requirements.** (1) Each application must explicitly and affirmatively state:

- (a) The name of the applicant;
- (b) The name of the applicant's business;

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

(d) If beer will be sold at two (2) or more restaurants or other businesses in the same building, pursuant to the same permit, a description of all such businesses;

(e) The names of persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;

(f) The identity and address of a representative to receive annual tax notices and any other communication from the city;

(g) That no person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance, or any crime involving moral turpitude within the past ten (10) years.

(h) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or both of the foregoing. If a holder of a beer permit for either off-premises consumption or on-premises consumption desires to change the method of sale, such permit holder shall apply to the beer board for a new permit;

(i) That the applicant will not engage in the sale of beer except at the place or places for which the beer board has issued a permit;

(j) That no sale of beer will be made except in accordance with the permit granted;

(k) That no sale will be made to persons under twenty-one (21) years of age, and that the applicant will not allow disorderly persons to loiter around the place of business;

(l) That the applicant will be responsible for any gambling on the premises and the permit will be subject to revocation by reason of the same. That the applicant will not allow nor has allowed the place of business to become a public nuisance or a nuisance to law enforcing agencies of the City of Columbia, nor that it has or will create a nuisance;

(m) That the applicant has secured a certificate or statement from the chief of police or other designated official that the premises which the application covers meets the requirements of this chapter and applicable state law. Such certificate or statement must be attached to the original application; and

(n) That the applicant has not had his or her permit revoked within one (1) year.

(2) No application shall be acted upon by the beer board unless:

(a) The application along with the nonrefundable application fee of two hundred fifty dollars (\$250.00) is submitted to the city recorder at least fifteen (15) days prior to the beer board meeting at which it is to be considered unless said period is waived by the beer board. (Ord. #1969, Dec. 1993, as amended by Ord. #3679, May 2007)

**8-213. Beer permits to be restrictive; special event permits.**

(1) All beer permits shall be restrictive as to the type of beer business authorized under them. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his or her permit and application therefor.

(2) A special occasion beer permit may be issued by the beer board and is a permit which may be issued to a bona fide charitable, nonprofit or political organization. Such permit shall be issued for no longer than one (1) twenty-four hour period, subject to the hours of sale which may be imposed by law or regulation, and such permit may be issued in advance of its effective date. Such permit shall not be issued unless and until there shall have been paid to the City of Columbia for each such permit a permit fee of fifty dollars (\$50.00), and there shall have been submitted to the beer board an application which designates the premises upon which beer shall be served. No such charitable, nonprofit or political organization shall be eligible to receive more than twelve (12) special occasion licenses in any calendar year. For the purpose of this section "bona fide charitable or nonprofit organization" means any corporation which has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C.501(c)) or any organization having been in existence for at least two (2) consecutive years which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational or charitable purposes; "bona fide political organization" means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-102 or any political party as defined in Tennessee Code Annotated, § 2-13-101. (Ord. #1969, Dec. 1993)

**8-214. Permits not transferable.** Beer permits shall not be transferable from one person to another or from one location to another. A new permit is required in the manner provided herein when a holder disposes of his business or transfers to another location. (Ord. #1969, Dec. 1993)

**8-215. Display of permit.** The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses and stamps as required by law. (Ord. #1969, Dec. 1993)

**8-216. Restrictions on permits based on proximity to schools, churches, public parks or other places of public gathering and on permits that would cause congestion of traffic or interfere with public health, safety and morals.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches or other places of public gathering or would otherwise interfere with the public health, safety and morals.

Specifically, but not by way of limitation, no permit for the sale of beer for consumption on the premises or off premises, shall be given to any applicant whose place of business is within one thousand (1,000) feet of any school, church or other place of public gathering, measured in a straight line from front door to front door; provided, however, the beer board shall not suspend, revoke or deny a permit to a business engaged in selling, distributing or manufacturing beer on the basis of the proximity of the business to a school, church or other place of public gathering if a valid permit had been issued to any business on that same location; provided further, however, this exception shall not apply if beer is not sold, distributed or manufactured at that location during any continuous ninety (90) day period.

In addition, no permit for the sale of beer for consumption on the premises shall be given to any applicant whose place of business is within five hundred (500) feet of any church. Said distance shall be measured from front door to front door.

Finally, no permit for the sale of beer for consumption off premises shall be given to any applicant whose place of business is within two hundred fifty (250) feet of any church. Said distance shall be measured in a straight line from front door to front door.

However, the beer board shall not suspend, revoke or deny a permit to a business engaged in selling, distributing or manufacturing beer on the basis of the proximity of the business to a school, park, church, or place of public gathering if a valid permit had been previously issued to any business on that same location; provided further, however, this exception shall not apply if beer is not sold, distributed or manufactured at that location during any continuous ninety (90) day period. (Ord. #1969, Dec. 1993, as amended by Ord. #2049, Feb. 1995, and replaced by Ord. #3679, May 2007, Ord. #3745, June 2008, and Ord. #3767, Sept. 2008)

**8-217. Further restrictions on the issuance of permits.** No permit shall be issued to any person who has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance, or any crime involving moral turpitude within the past ten (10) years.

The board in its discretion may refuse to issue a permit for any place of business which in the period immediately preceding the application for a permit was operated in such a manner as to materially contribute with places of like character in its vicinity in the creation or maintaining of a public nuisance.

No permit shall be issued to any person who has been found guilty of violating any of the provisions of this chapter. (Ord. #1969, Dec. 1993, as replaced by Ord. #3679, May 2007)

**8-218. Issuance of permits to hotels, clubs, etc.** It shall be lawful for the beer board to issue a permit, for this chapter, to hotels, motels, clubs or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided for by this chapter. (Ord. #1969, Dec. 1993)

**8-219. Sanitation for the premises of the permit holder.** The premises of the permit holder shall be defined as the lot or property under control of the permit holder, both inside the building and outside the building. The permit holder shall be responsible for the sanitation of the premises including refuse storage, both inside and outside the building, lavatory and general cleanliness of the grounds and structure. The city manager, the county health officer or any properly authorized person is hereby authorized to enter the premises at all reasonable hours for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the City of Columbia. (Ord. #1969, Dec. 1993)

**8-220. Persons under the age of twenty-one years, fraudulent evidence of age; purchase in behalf of a person under twenty-one years of age by third person, etc.** It shall be unlawful for any person under the age of twenty-one (21) years to purchase, attempt to purchase or to possess any such beverage covered under this chapter, or for anyone to purchase such beverage for a person under twenty-one (21) years of age. It shall be unlawful for any person under twenty-one (21) years of age to present or offer to the holder of a permit, his agent or employee, any written evidence of his age is false, fraudulent or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any person who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and if eighteen (18) years of age, or more, shall upon conviction, be subject to a penalty under the general penalty clause for this code; if seventeen (17) years of age, or less, he shall be taken before a juvenile judge for appropriate proceedings. (Ord. #1969, Dec. 1993)

**8-221. Investigation of applicants, agents and/or employees.**

Applicants for, and holders of retail permits under this chapter and their agents or employees are subject to be investigated by any municipal, county or state authorities, including members of the beer board, and must submit such information and records as the beer board may require. (Ord. #1969, Dec. 1993)

**8-222. Prohibited conduct or activities by beer permit holder.** It shall be unlawful for any beer permit holder to:

(1) Employ any person in the distribution or sale of beer who, within the previous ten (10) years, has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance, or any crime involving moral turpitude.

(2) Employ any person under eighteen (18) years of age in the sale or dispensing of beer or intoxicating liquors at retail for consumption on the premises. The holder of a beer permit shall be held strictly accountable for the violation of this provision and the burden of ascertaining the age of any person shall be upon the holder and operator of such place of business.

(3) Make or allow any sale of beer or intoxicating liquor, or make, cause or allow to be made any gift thereof, between the hours of 3:00 A.M. and 8:00 A.M. during any night of the week except on Sunday between the hours of 3:00 A.M. and 12:00 noon on Sunday, provided, however, with the exception of Sunday the sale of package beer or intoxicating liquors shall be allowed after 6:00 A.M. on any day of the week.

(4) Allow any loud, unusual or obnoxious noises to emanate from the premises.

(5) Make or allow any sale of beer or intoxicating liquors, or make, cause or allow to be made any gift thereof to a person under twenty-one (21) years of age, or permit such sale by an employee or any person in any way connected with his place of business. The holder of a beer permit shall be held strictly accountable for the violation of this provision and the burden of ascertaining the age of any customer shall be upon the owner or operator of such place of business and he shall be held strictly accountable for all acts of his employees.

(6) Allow any minor to loiter in his place of business. The burden of ascertaining the age of any person shall be upon the owner or operator of such place of business and he shall be held strictly accountable for any actions of his employees for the violation of this provision.

(7) Make or allow any sale of beer or intoxicating liquor, or make, cause or allow to be made any gift thereof, to any intoxicated person.

(8) Allow drunk or intoxicated persons to loiter on his premises.

(9) Fail to provide and maintain adequate separate sanitary toilet facilities for men and women in facilities selling beer or intoxicating liquors for consumption on the premises.

(10) Allow any sale or delivery of beer or intoxicating liquors for consumption on the premises outside the building occupied by the holder of the permit, except for all decks, patios, enclosed tents and other outdoor serving areas that have direct access to the building and that are contiguous to the exterior of the building in which the business is located and that are operated by the business. Further, a beer permit holder for the sale of package beer may not deliver said beer.

(11) The owner or operator shall be held strictly accountable for any actions of his employees which violate any of the above provisions. (Ord. #1969, Dec. 1993, as amended by Ord. #3467, July 2002, and Ord. #3679, May 2007)

**8-223. Suspension and revocation of beer permits.** All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by the beer board for violation of any provision of the state beer laws or any provision of this chapter. Suspension or revocation proceedings may be initiated by any interested person, by the chief of police, or any member of the police force of the City of Columbia or by any member of the Beer Board of the City of Columbia. The board is vested with full and complete power to investigate any charges against any permit holder and to cite any permit holder to appear and show just cause why his permit should not be suspended or revoked. In addition, the board can designate the Columbia Police Department to conduct any such investigations.

Complaints filed against any permit holder for the purpose of suspending or revoking his permit shall be made in writing and filed with the secretary of the board. When the chairman of the beer board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the chairman of the beer board is authorized to notify the permit holder of said violations, and to cite said permit holder by written notice to appear at a regular or special meeting of the beer board and show cause why his or her permit should not be suspended or revoked for such violations. The notice to appear and show cause shall state the alleged violations charged and shall be served upon the permit holder either by certified mail, return receipt requested or by a member of the police department of the City of Columbia. The notice shall be served upon the permit holder at least five (5) days before the date of the hearing.

After such hearing the board may, in its discretion, suspend or revoke said permit. The board may, at the time it imposes a suspension or revocation, 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 not to exceed \$1,000 for any other offense. If a civil penalty is

offered as an alternative to suspension or revocation, the holder shall have seven (7) days within which to pay the civil penalty before the suspension or revocation shall be imposed. If the civil penalty is paid within that time, the suspension or revocation shall be deemed withdrawn. The holder's payment of a civil penalty shall not affect his or her right to review by the courts as hereinafter set forth. The action of the board in all such hearings shall be final, subject to review by the courts as provided in the state beer law. When a permit is revoked, now new permit shall be issued hereunder for the sale of beer to the permit holder until the expiration of one (1) year from the date such revocation becomes final.

At any hearing held pursuant to this chapter for the suspension or revocation of a beer permit, the hearing shall be broad in character and evidence may be heard upon any facts or circumstances to or applicable to the charges made in the complaint. The reputation and character of the place in question and of the operator and the employees thereof or the holder of the permit complained of shall be material and competent for the consideration of the board at such hearing. (Ord. #1969, Dec. 1993, as amended by Ord. #3679, May 2007)

**8-224. City business license.** Each applicant granted to sell any beverage coming within the provisions of this chapter shall, before engaging in such sale, secure from the city recorder of the City of Columbia, Tennessee, a city business license as provided in the Tennessee Code Annotated, and shall on any annual inspection provide evidence that the current business license has been issued. (Ord. #1969, Dec. 1993)

**8-225. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer in the city a privilege tax of \$100. Any person, firm, corporation, joint-stock company, syndicate or association engaged in selling, distributing, storing or manufacturing beer shall remit the tax on January 1, 1994, and each successive January 1 to the city. The tax shall be remitted to the city recorder as identified in the notice hereinafter designated. The city shall mail written notice to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city recorder shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the permit shall be void. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

The city may utilize these tax funds for any public purpose. (Ord. #1969, Dec. 1993)

**8-226. Notice requesting information.** On or before September 1, 1993, the beer board shall mail written notice to each person holding a beer permit as of August 1, 1993, requesting the information required by § 8-212 of this chapter. If the permit holder does not respond within thirty (30) days after the written notice is mailed, then the beer board shall notify the permit holder by certified mail that a response is due. If a permit holder does not respond within ten (10) days after receiving notice by certified mail, then the permit shall be void. (Ord. #1969, Dec. 1993)

**8-227. Penalties for violations.** Any person, firm, corporation, joint-stock company, syndicate or association engaged in the sale, distribution or manufacture of beer without the permit required by this chapter shall be guilty of a Class A misdemeanor.

Upon the conviction of any permit holder for the violation of any provision of this chapter or the beer laws of the State of Tennessee, the municipal judge shall have the authority to suspend the beer permit for a period of not to exceed thirty (30) days upon the recommendation of the chief of police. This authority granted to the municipal judge shall in no way affect or limit the suspension and revocation authority of the beer board as set forth in the above, but is supplementary thereto. The municipal judge shall have like authority to suspend a permit for a period not to exceed thirty (30) days when any employee of the holder thereof is convicted as provided in § 8-223. (Ord. #1969, Dec. 1993)

**8-228. Employees liable for violations.** Any employee of any permit holder who violates the provisions of this chapter or an provision of the State Beer Act while so employed by such permit holder shall be guilty of a misdemeanor which shall be punishable under the general penalty clause of this code. (Ord. #1969, Dec. 1993)

**8-229. Notice to be given of permit suspension or revocation.** The board shall cause the secretary to notify the chief of police or all interested wholesalers of the suspension or revocation of any permit. (Ord. #1969, Dec. 1993)

**8-230. Application fee for sale of beer.** Each applicant for a beer permit shall be required to pay an application fee of \$250 to the city recorder upon the filing of an application. No portion of the fee shall be refunded to the applicant notwithstanding whether an application is approved or denied. (Ord. #1969, Dec. 1993)