

Chapter 6 - ALCOHOLIC BEVERAGES¹¹

Footnotes:

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State Law reference— Alcoholic beverages generally, T.C.A. § 57-1-101 et seq.; beer generally, T.C.A. § 57-5-101 et seq.; authority to regulate beer sales, T.C.A. § 57-5-108; intoxicating liquors generally, T.C.A. § 57-3-101 et seq.; public intoxication, T.C.A. § 39-17-310.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage or *beverage* means and includes alcohol, spirits, liquor, wine high alcohol content beer, and every liquid containing alcohol, spirits, wine and high alcohol content beer and capable of being consumed by a human being, other than patent medicine, or beer. Notwithstanding any section to the contrary in this chapter, except for beer, the term alcoholic beverage or beverage also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol regardless of alcoholic content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer shall also be alcoholic beverages. Notwithstanding the provisions of this definition, products or beverages containing less than one-half of one percent alcohol by volume, other than wine as defined in this section, shall not be considered to be alcoholic beverages.

Applicant means the person applying for a certificate of good moral character or a license.

Application means the form an applicant is required to file in order to obtain a certificate of good moral character or a license.

Beer means beverages as defined at T.C.A. section 57-5-101(b) and amendments thereto.

Bottle means any container, vessel or other receptacle used for holding any alcoholic beverage.

Certificate of good moral character means the certificate provided for in T.C.A. § 57-3-208 in connection with the prescribed procedure for obtaining a state liquor retailer's license.

Container means any bottle, can, vessel, device, or other receptacle used for holding or containing any amount of wine, beer, or alcoholic beverage.

Distiller means any person who owns, occupies, carries on, works, conducts or operates any distillery, either by himself or by his agent.

Distillery means any place or premises wherein any liquors are manufactured for sale.

Federal statutes means the statutes of the United States in effect or as they may be changed.

Inspection fee means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

License means a license issued by the state under this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

License fee means the annual fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

Licensee means the holder of a license.

Liquor district means the geographical area within the corporate limits of the city for each of the six separate areas designated as districts I through VI, inclusive, all as shown on a map, dated August 5, 1969, entitled "Liquor Store District Map of the City of Kingsport," including any future amendments to the map.

Liquor store means the building or the part of a building where a licensee conducts any business authorized by his license.

Manufacture means distilling, rectifying and operating a winery or any device for the production of alcoholic beverages.

Manufacturer means a distiller, vintner and rectifier of alcoholic beverages.

Open means any opening or breach through which the contents of any can, bottle, or container may pass in order to be consumed by any person.

Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places also includes the premises of any shopping center, manufactured housing complex, apartment house complex, or any other premises frequented by the public at large, but does not include premises used solely as a private residence, whether permanent or temporary in nature.

Rectifier means any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

Retail sale or *sale* at retail means a sale of an alcoholic beverage to a consumer or to any person for any purpose other than for resale.

Sale or *sell* means the exchange or barter of an alcoholic beverage, and also any delivery made otherwise than gratuitously of an alcoholic beverage; the soliciting or receiving of an order for an alcoholic beverage; the keeping, offering or exposing an alcoholic beverage for sale.

State alcoholic beverage commission means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes.

State liquor retailer's license means a license issued under the state statutes, including the provisions contained in T.C.A. § 57-3-101 et seq., for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

State rules and regulations means all applicable rules and regulations of the state applicable to alcoholic beverages in effect or as they may be changed, including without limitation the local option liquor rules and regulations of the state alcoholic beverage commission.

State statutes means the statutes of the state in effect or as they may be changed.

Unsealed means the original seal, cork, cap, or other enclosing device is broken or removed or on which the federal revenue strip stamp has been broken.

Vintner means any person who owns, occupies, carries on, works, conducts or operates any winery, either by himself or by his agent.

Wholesale sale or *sale at wholesale* means a sale to any person for purposes of resale.

Wholesaler means any person who sells at wholesale any alcoholic beverage for which a license is required under T.C.A. § 57-3-101 et seq.

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 21 percent by volume. No other product shall be called wine unless designated by

appropriate prefixes descriptive of the fruit or other product from which the product was predominantly produced or unless designated as an artificial or imitation wine.

Winery means any place or premises wherein wines are manufactured from any fruit or brandies are distilled as the byproduct of wine or other fruit, or where cordials are compounded; and also includes a winery for the manufacture of wine.

(Code 1981, § 4-69; Code 1998, § 6-31; Ord. No. 6757, § III, 8-21-2018)

State Law reference— Similar definitions, T.C.A. § 57-3-101.

Sec. 6-2. - Possession of open containers in motor vehicles or on public property.

- (a) It shall be unlawful for any person to possess open or unsealed cans, bottles or containers of beer, wine, or alcoholic beverage in or upon any motor vehicle while traveling or parked upon the public streets, alleys or highways of the city or while upon the premises of any public parking area, public park, playground, auditorium, theater, stadium, school, school grounds, or any public place.
- (b) This section shall not apply to motorized carts designed for use upon golf courses, provided that the cart is being used for the purpose of playing golf on an established golf course or to passengers while on a commercial pedal carriage operated pursuant to the requirements and restrictions in section 26-155 et seq.

(Code 1981, § 4-1; Code 1998, § 6-1; Ord. No. 4014, § II(4-1), 3-7-1995; Ord. No. 5401, § I, 5-2-2006; Ord. No. 5810, § II, 2-17-2009; Ord. No. 6757, § III, 8-21-2018)

State Law reference— Similar provisions, T.C.A. § 55-10-416(a), (b); authority for municipal regulations, T.C.A. § 55-10-416(c).

Sec. 6-3. - Public display or consumption of beer, wine or other alcoholic beverages.

- (a) It shall be unlawful for any person to drink or consume beer, wine or alcoholic beverage or to display, exhibit or show openly any open or unsealed container of beer, wine, or alcoholic beverage upon any public street or sidewalk or in any public parking area, public park, playground, auditorium, theater, stadium, school, school grounds, or any public place.
- (b) This section shall not apply to the following:
 - (1) Patrons of premises licensed for on-premises consumption while the patrons are in or upon such premises;
 - (2) Patrons of premises occupied by lease or license for private purposes and not open to the general public;
 - (3) Patrons of premises licensed for on-premises consumption where attendance may be controlled by the lessee;
 - (4) Patrons of premises that have been granted special permission by the city beverage board or the state alcoholic beverage commission, whichever is applicable, for such consumption;
 - (5) When granted a permit by the beverage board for a temporary outdoor service permit;
 - (6) When granted a special permit for outdoor service areas or a permit for sidewalk cafe dining facilities; or
 - (7) When granted a special event permit and otherwise complying with the rules established by the board of mayor and aldermen and of the beverage board relating to the service of beer outdoors

or pursuant to a special event or temporary permit issued pursuant to section 6-213(f)(2),(3), (4) or (6).

(c) Subsection (b) of this section may include outdoor areas.

(Code 1998, § 6-2; Ord. No. 4014, § II(4-2), 3-7-1995; Ord. No. 5401, § II, 5-2-2006; Ord. No. 5810, § III, 2-17-2009; Ord. No. 6757, § IV, 8-21-2018; Ord. No. 6757, § IV, 8-21-2018)

Sec. 6-4. - Violations.

Any person violating any section of this chapter shall be guilty of an offense and shall be punished as provided in section 1-14 for each such violation. Any licensee violating any section of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, state statutes or state rules and regulations.

(Code 1981, § 4-78; Code 1998, § 6-32)

Sec. 6-5. - Compliance required.

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

(Code 1981, § 4-70; Code 1998, § 6-33)

Sec. 6-6. - Inspections.

The city manager and the recorder are authorized to examine the books, papers and records of any licensee at any and all reasonable times for the purpose of determining whether this chapter is being observed. The city manager, the city recorder, the chief of police and any other police officer is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee or the inspection and examination of the premises of a liquor store shall be unlawful. The city manager shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee.

(Code 1981, § 4-76; Code 1998, § 6-34)

Sec. 6-7. - Article supplemental.

This chapter shall be supplemental to all other ordinances.

(Code 1981, § 4-80; Code 1998, § 6-35)

Sec. 6-8. - Manufacture prohibited.

It shall be unlawful for any person to manufacture any alcoholic beverage, except as permitted by T.C.A. § 39-17-708.

(Code 1981, § 4-71; Code 1998, § 6-36)

Sec. 6-9. - Liability of licensee for acts of others.

Under this chapter, each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee.

(Code 1981, § 4-77; Code 1998, § 6-40)

Sec. 6-10. - Contraband.

Police officers shall take possession of any alcoholic beverages which have been received by or are in the possession of or are being transported by any person in violation of state statutes, state rules and regulations, federal statutes or this chapter. Beverages so seized shall be contraband and shall be disposed of as provided by state law.

(Code 1981, § 4-79; Code 1998, § 6-41)

Secs. 6-11—6-38. - Reserved.

ARTICLE II. - LIQUOR

DIVISION 1. - GENERALLY

Sec. 6-39. - Sale authorized.

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

(Code 1981, § 4-73; Code 1998, § 6-38)

State Law reference— Local sales authorized, T.C.A. § 57-3-102.

Secs. 6-40—6-66. - Reserved.

DIVISION 2. - CERTIFICATES AND PERMITS²

Footnotes:

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State Law reference— State liquor licensing and fees, T.C.A. § 57-3-201 et seq.

Sec. 6-67. - Application.

- (a) A person desiring a certificate of compliance required under this chapter shall submit to the city recorder a copy of each application and each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with his application and shall

also submit five copies of a plan drawn to a scale of not less than one inch equals 20 feet, giving the following information:

- (1) The shape, size and location of the lot upon which the liquor store is to be operated under the license;
 - (2) The shape, size, height and location of all buildings and whether they are to be erected, altered, moved or are in existence upon the lot;
 - (3) The off-street parking space and the off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and
 - (4) The identification of every parcel of land within 200 feet of the lot upon which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.
- (b) Each applicant for a certificate of compliance shall also file with the city recorder a completed application for the certificate of compliance provided by the city recorder which shall contain the following information:
- (1) The name and street address of each person to have any interest, direct or indirect, in the licensee as owner, partner, stockholder, director, officer or otherwise;
 - (2) The name of the liquor store to be operated under the license;
 - (3) The address of the liquor store to be operated under the license and zoning designation applicable to such location;
 - (4) The statement that each applicant has been a bona fide resident of the state for at least two years next proceeding the date the application is filed;
 - (5) The names and addresses of at least three residents of the city who have known each applicant for at least two years;
 - (6) The agreement of each applicant to comply with state statutes, federal statutes, this chapter and state rules and regulations with reference to the sale of alcoholic beverages; and
 - (7) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within 90 days after the license is granted to such applicant.
- (c) The application form shall be signed and verified by each person who has any interest in the licensee either as owner, partner, stockholder, director, officer or otherwise.
- (d) Every certificate of compliance to be signed by the mayor or a majority of the board shall state the following:
- (1) The applicant who is to be in actual charge of the business has not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application, and, further, in the mayor or other official's opinion the applicant will not violate any of the provisions of T.C.A. § 57-3-101 et seq.;
 - (2) The applicant has secured a location for the business, which complies with all restrictions as to location within the city; and
 - (3) The applicant has complied with section 6-69 regulating the number of retail liquor stores.
- (e) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court within 60 days of the denial.
- (f) A failure to grant or deny the certificate of compliance within 60 days of the written application shall be deemed a grant of the certificate of compliance.

- (g) The city recorder shall review each application; shall note any apparent questions, errors and insufficiencies; and shall submit the application to the board of mayor and aldermen for consideration and action.

(Code 1981, § 4-88; Code 1998, § 6-71)

Sec. 6-68. - Restrictions on location of retail liquor stores.

No new location for a retail liquor store shall be approved when the location specified in the application for a certificate of compliance, on the date of the application for a certificate of compliance, is:

- (1) Not classified as being in either a B-2, B-3, B-4P, M-1 or M-2 zoning district.
- (2) Within the following distances:
 - a. 200 feet of any:
 1. Church or religious building;
 2. Public or private school;
 3. Park, playground, community center, public library or other public recreational facility or area;
 4. Hospital, mortuary or cemetery; or
 5. Other similar public building or place;as measured from the center of the proposed major entrance of the new location for such retail liquor store to the major entrance of any of such institutions or facilities in a direct line by the shortest distance; or
 - b. One mile of any other retail liquor store, as measured from property line to property line by way of the closest route between the stores over public streets, and not crossing any property lines.
- (3) On either side of the same block as the major entrance of any of the institutions or facilities mentioned in subsection (2) of this section.
- (4) Adjacent to property where any structure used as a residence is located.
- (5) On other than an expressway or arterial street, as established by the major street and road plan adopted by the regional planning commission.

(Code 1981, § 4-89; Code 1998, § 6-72)

Sec. 6-69. - Limitation on number of retail licenses.

- (a) No new location for a retail liquor store, except a transfer from one location to another in special circumstances fixed by rule or regulation of the state alcoholic beverage commission, as authorized by statute, shall be approved unless it is determined that alcoholic beverages are not generally available in the city or that the city is not being adequately served by operating retail liquor stores.
- (b) For the purpose of determining whether alcoholic beverages are generally available in the city or whether the city is being adequately served, it will be presumed, absent proof to the contrary, that alcoholic beverages are generally available and that the area is being adequately served when the ratio between the number of operating retail liquor stores in the city and the population of the city is less than or equal to one store for each 5,500 city residents; provided, however, that there can be no less than one retail liquor store in the city in which the sale of alcoholic beverages is permitted pursuant to T.C.A. § 57-3-106.

- (c) Any material proof to rebut the presumption established in subsection (b) of this section may be submitted as in other administrative matters before the board of mayor and aldermen.
- (d) The determination of the board of mayor and aldermen concerning the general availability of alcoholic beverages or the adequacy of service in the city shall be binding upon the applicant. However, upon proof of materially changed conditions, the board may alter, amend or change its determination, provided that such a determination shall not affect those retail liquor licenses issued and in current and continuous use by the same holder.

(Code 1981, § 4-90; Code 1998, § 6-73)

Sec. 6-70. - Other restrictions on issuance.

To ensure that all requirements of this chapter are satisfied, no original or renewal certificate of compliance shall be issued for any location until:

- (1) An application has been filed with the city recorder;
- (2) The application complies with all restrictions as to location and number of retail licenses to be issued within the city; and
- (3) The application has been considered at a regular or called meeting of the board of mayor and aldermen and approved by a majority vote.

(Code 1981, § 4-91; Code 1998, § 6-74)

Sec. 6-71. - Bond.

Each licensee, as a condition precedent to operating a liquor store in the city, shall execute and deliver to the city a bond in the amount of \$2,500.00. The bond shall be payable to the city and shall be executed by a surety company duly authorized and qualified to do business in the state, and the bond shall be conditioned that the licensee shall pay to the city all inspection fees due under this division. The surety bond shall be in a form approved by the city attorney.

(Code 1981, § 4-111; Code 1998, § 6-106)

Sec. 6-72. - Inspection fees.

There is levied on each alcoholic beverage licensee an inspection fee in the amount of five percent of the wholesale price of all alcoholic beverages supplied during each month by wholesalers to such licensee.

(Code 1981, § 4-107; Code 1998, § 6-101)

State Law reference— Municipal inspection fee authorized, T.C.A. § 57-3-501.

Sec. 6-73. - Collection.

Collection of the inspection fee levied in this division shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of the inspection fee by such collecting wholesaler or other source shall be made to the city recorder on or before the 20th day of each calendar month for all collections in the preceding calendar month. Nothing in this division shall relieve the licensee of the obligation of the payment of the inspection fee, and it shall be the licensee's

duty to see that the payment of the inspection fee is made to the city recorder on or before the 20th day of each calendar month for the preceding month.

(Code 1981, § 4-110; Code 1998, § 6-105)

State Law reference— Similar provisions, T.C.A. § 57-3-502.

Sec. 6-74. - Additional taxes.

The inspection fee levied in this division shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages and shall not be a substitute for such taxes.

(Code 1981, § 4-114; Code 1998, § 6-102)

State Law reference— Exclusive fee, T.C.A. § 57-3-502.

Sec. 6-75. - Form for reports; rules and regulations.

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

(Code 1981, § 4-109; Code 1998, § 6-104)

State Law reference— Reports and payments, T.C.A. § 57-3-502.

Sec. 6-76. - Effect of failure to report and pay.

The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed in this division shall, at the sole discretion of the city manager, be cause for taking such action as is necessary to suspend the offending licensee's license for as much as 30 days or to revoke the license.

(Code 1981, § 4-112; Code 1998, § 6-107)

Sec. 6-77. - Use of funds.

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

(Code 1981, § 4-113; Code 1998, § 6-108)

Sec. 6-78. - Report of violations.

For any violation of T.C.A. title 57 pertaining to intoxicating liquor, rules of the alcoholic beverage commission, any federal statutes or this chapter by a licensee or by any person for whose acts the licensee is responsible, the city manager shall, upon notice, pursuant to T.C.A. § 57-3-214, forthwith report such violation to the state alcoholic beverage commission.

(Code 1981, § 4-92; Code 1998, § 6-75)

Sec. 6-79. - Report of discontinuance of business.

If any licensee, for any reason, shall not be actively engaged in or shall not keep his liquor store open during normal business hours for a period of 15 workdays in any calendar year, upon notice, the city manager shall, pursuant to rules of the alcoholic beverage commission, local option liquor rules and regulations, licenses and permits (Tennessee Comp. Rules and Regs. 0100-3-.09(6)), report such fact to the state alcoholic beverage commission.

(Code 1981, § 4-93; Code 1998, § 6-76)

Secs. 6-80—6-101. - Reserved.

DIVISION 3. - WHOLESALERS

Sec. 6-102. - Local licenses not issued.

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

(Code 1981, § 4-72; Code 1998, § 6-37)

Sec. 6-103. - Invoices.

- (a) It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing the following:
- (1) The date of the transaction;
 - (2) The name and address of the wholesaler and of the licensee;
 - (3) The brand name and quantity of alcoholic beverages covered by the invoice; and
 - (4) The unit wholesale price and the gross wholesale price for each item listed.
- (b) The wholesaler's invoice shall be issued and delivered to the licensee as provided in subsection (a) of this section, without regard to the terms of payment of the invoice, so as to include all such transactions, whether for cash or on credit or partly for cash and partly on credit.

(Code 1981, § 4-108; Code 1998, § 6-103)

Secs. 6-104—6-134. - Reserved.

DIVISION 4. - OPERATIONAL RULES AND REGULATIONS

Sec. 6-135. - Compliance with zoning.

Compliance by each licensee with all sections of chapter 114, pertaining to zoning, including but not limited to those sections relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate under this chapter, shall be a condition precedent to the operation of any liquor store authorized by this chapter.

(Code 1981, § 4-122; Code 1998, § 6-136)

Sec. 6-136. - Records kept by licensee.

- (a) In addition to any records specified in the rules and regulations promulgated by the recorder pursuant to this chapter, each licensee shall keep on file at such licensee's liquor store the following records:
- (1) Original invoices required in this chapter for all alcoholic beverages bought by or otherwise supplied to the licensee;
 - (2) The original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and
 - (3) An accurate record of all alcoholic beverages lost, stolen, damaged, given away or disposed of other than by sale and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and, where known, the name of the person receiving the alcoholic beverages.
- (b) All such records shall be preserved for a period of at least two years unless the recorder gives the licensee written permission to dispose of such records at an earlier time.

(Code 1981, § 4-123; Code 1998, § 6-137)

Sec. 6-137. - Hours and days of operation.

No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, Thanksgiving Day, any Sunday or any day on which a public election is held within the city. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 a.m. or after 11:00 p.m.

(Code 1981, § 4-124; Code 1998, § 6-138)

State Law reference— Similar provisions, T.C.A. § 57-3-406.

Sec. 6-138. - Management.

Each liquor store licensed under this chapter shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverages are sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who

will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the recorder.

(Code 1981, § 4-125; Code 1998, § 6-139)

Sec. 6-139. - First floor location required; entrances and exits.

- (a) No liquor store shall be located on any premises above the ground floor, and each liquor store shall have only one entrance for use by the public except as provided in this section.
- (b) When a liquor store is located at the corner of two public streets, such store may have one entrance opening onto each of the streets for use by the public for the purpose of entering the store to purchase alcoholic beverages.
- (c) A liquor store fronting on a parking lot shall have one entrance for use by the public, such entrance to open onto the lot.
- (d) A liquor store fronting on a parking lot or a public street and adjoining the lobby of a hotel or motel may have one entrance opening onto the parking lot or public street and one entrance into the hotel or motel lobby, so long as such lobby is open to the general public.
- (e) A liquor store located in an established shopping center or shopping mall may have one public entrance onto a parking lot or one public entrance onto the concourse of the shopping center or shopping mall.
- (f) No liquor store shall have more than two entrances for use by the public to purchase alcoholic beverages, as provided in this chapter.
- (g) No subsection in this section is to be construed in a manner so as to relieve the operator of any liquor store covered by this chapter from compliance with the requirements of the city building and fire codes.

(Code 1981, § 4-126; Code 1998, § 6-140)

State Law reference— Entrances, exits, etc., T.C.A. § 57-3-404(f).

Sec. 6-140. - Employment of felons.

No licensee shall employ in the sale of alcoholic beverages any person who, within ten years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude. If an employee is convicted, he shall immediately be discharged. However, this section 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.

(Code 1981, § 4-127; Code 1998, § 6-141)

State Law reference— Similar provision, T.C.A. § 57-3-210(i).

Sec. 6-141. - Employment of aliens.

No licensee shall employ a person in the sale of alcoholic beverages who is not a citizen of the United States or an alien lawfully residing in the United States.

(Code 1981, § 4-128; Code 1998, § 6-142)

State Law reference— Similar provisions, T.C.A. § 57-3-210(g).

Sec. 6-142. - Employment of minors.

No licensee shall employ in the storage, sale or distribution of alcoholic beverages a person under the age of 18 years, and it shall be unlawful for any licensee to permit a minor in his place of business to engage in the storage, sale or distribution of alcoholic beverages.

(Code 1981, § 4-129; Code 1998, § 6-143)

State Law reference— Similar provisions, T.C.A. § 57-3-210(h).

Sec. 6-143. - Sale confined to premises; curb service, drive-in windows prohibited.

All retail sales of alcoholic beverages shall be confined to the premises of the licensee. No curb service shall be permitted, nor shall there be permitted any drive-in windows.

(Code 1981, § 4-130; Code 1998, § 6-144)

State Law reference— Similar provisions, T.C.A. § 57-4-203(f).

Sec. 6-144. - Reserved.

Editor's note— Ord. No. [6806](#), § I, adopted July 2, 2019, repealed § 6-144, which pertained to liquor advertisements, and derived from the Code of 1981, § 4-131 and the Code of 1998, § 6-145.

Sec. 6-145. - Use of canvassers, solicitors.

No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor or representative 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 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 section shall not be construed to prohibit the solicitation by a state-licensed wholesaler of any order from any licensee at the licensee's premises.

(Code 1981, § 4-133; Code 1998, § 6-146)

State Law reference— Restrictions on solicitations, T.C.A. § 57-3-405.

Sec. 6-146. - Consumption on premises.

- (a) It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith.
- (b) It shall be unlawful for any person to consume any alcoholic beverage in a liquor store.
- (c) It shall be unlawful for any licensee to allow any person to consume any alcoholic beverages in such licensee's liquor store or on the premises used by the licensee in connection therewith.

(Code 1981, § 4-134; Code 1998, § 6-147)

State Law reference— Consumption on premises generally, T.C.A. § 57-4-101 et seq.

Sec. 6-147. - Amusement or entertainment devices.

No radio, television, record player, pinball machine or other amusement device shall be permitted in any liquor store.

(Code 1981, § 4-135; Code 1998, § 6-148)

Sec. 6-148. - Seating facilities.

No seating facilities, other than those for employees, shall be permitted in any liquor store.

(Code 1981, § 4-136; Code 1998, § 6-149)

Sec. 6-149. - Sale or furnishing to persons under 21 years of age or intoxicated persons.

(a) It shall be unlawful for any licensee to:

(1) Sell, furnish or give away any alcoholic beverages to any person who is:

- a. Under 21 years of age;
- b. Visibly intoxicated; or

(3) Allow any person under 21 years of age or any person who is visibly intoxicated to enter or remain in the licensee's liquor store or any part of the licensee's premises which is adjacent to the liquor store, other than as provided in subsection (b) of this section.

(b) Subsection (a) of this section shall not prohibit a person 18 years of age or older from selling or dispensing alcoholic beverages in the course of his employment.

(Code 1981, § 4-137; Code 1998, § 6-150)

State Law reference— Similar provisions, T.C.A. §§ 57-3-406, 57-4-203.

Sec. 6-150. - Restrictions on persons under 21 years of age or persons visibly intoxicated.

(a) It shall be unlawful for any person under 21 years of age or any person who is visibly intoxicated to:

- (1) Enter or remain in a liquor store.
- (2) Loiter in the immediate vicinity of a liquor store.
- (3) Buy or receive any alcoholic beverage from any licensee or from any other person.

(b) It shall be unlawful for a person under 21 years of age 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.

(c) 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 a person under 21 years of age or any person who is visibly intoxicated.

(d) This section shall not prohibit a person 18 years of age or older from selling or dispensing alcoholic beverages in the course of his employment.

(Code 1981, § 4-75; Code 1998, § 6-39)

State Law reference— Similar provisions, T.C.A. § 57-4-203.

Secs. 6-151—6-168. - Reserved.

ARTICLE III. - BEER^[3]

Footnotes:

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State Law reference— Power of city to regulate beer, T.C.A. § 57-5-108.

DIVISION 1. - GENERALLY

Sec. 6-169. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Barrel means 31 gallons.

Beer means beer of alcoholic content and not more than five percent by weight or any other beverage of like alcoholic content.

(Code 1981, § 4-33; Code 1998, § 6-181; Ord. No. 6463, § I, 1-6-2015)

Sec. 6-170. - Beverage board.

- (a) There is created for the administration of this chapter the beverage board. The board shall consist of nine members. The chief of police, the director of planning and the city recorder and treasurer shall be *ex officio* members of the board for whom designees may act in their absence. The remaining six members of the board shall be citizens of the city and members of the public at large, appointed by the mayor, with the advice and consent of the board of mayor and aldermen. They shall be appointed for staggered terms of not less than three years or until their respective successors are appointed and qualified.
- (b) One of the appointed members shall have had at least five years of business or administrative experience in the ownership or operation of a retail enterprise; one member shall be, at the time of his appointment, licensed to practice law in the state; the remaining members shall be appointed at large. Members appointed to fill vacancies shall have the same general qualifications required for their predecessors. All appointed members shall be persons of good reputation having diverse interests and who have been actively identified with the development and improvement of the city.
- (c) The board shall enforce and administer this chapter and the rules and regulations made by it.
- (d) The board shall have and exercise the following functions, duties and powers:
 - (1) Issue all permits in respect to or for the manufacture, storage, distribution, transportation and sale of beer.
 - (2) Revoke or suspend any permit which is authorized by this chapter or charge a civil penalty as provided by state law. Any revocation or suspension of any permit shall be made by the board only on account of the violation of or refusal to comply with any of the sections of this chapter or any rule or regulation of the board, after not less than ten days' notice to the holder of the permit proposed to be revoked, informing such permittee of the time and place of the hearing to be held in respect thereto. All further procedures with reference to the revocation of any permit

shall be fixed and prescribed in the rules and regulations adopted and promulgated by the board, which may be repealed or amended from time to time.

- (3) Refuse to issue a permit as follows:
 - a. If, upon investigation, it finds that the applicant for a permit has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning the operation of the business or employment or if the interest of the applicant in the operation of the business or employment is not truly stated in the application or if fraud or false swearing by the applicant touching any matter relating to the operation of the business or employment occurs. If a permit has been issued, the board shall issue a citation to the permittee to show cause why the permit should not be suspended or revoked. All data, written statements, affidavits, evidence or other documents submitted in support of an application shall be deemed to be a part of the application.
 - b. The board may determine that such issuance would be detrimental to public health, safety or morals.
- (4) Summon any applicant for a permit and, also, summon and examine witnesses and administer oaths to such applicants and witnesses in making any investigation in regard thereto.
- (5) Make, promulgate, alter, amend or repeal rules and regulations for the enforcement of this chapter.
- (6) Prescribe all forms of applications and licenses and of all reports and all other papers and documents required to be used under or in the enforcement of this chapter.

(Code 1981, § 4-34; Code 1998, § 6-182; Ord. No. 5401, § III, 5-2-2006)

State Law reference— Authority for beer board, T.C.A. § 57-5-106.

Sec. 6-171. - Violations; revocation or suspension of permit.

Any person violating any section of this chapter shall be guilty of an offense, and, in addition to being subject to the penalties imposed for violation of this Code in section 1-14, any permit issued may be revoked or suspended by the beverage board, or in lieu thereof, charged a civil penalty as provided by state law.

(Code 1981, § 4-56; Code 1998, § 6-183; Ord. No. 5401, § IV, 5-2-2006)

Sec. 6-172. - Sale, storage, manufacture, distribution as privilege.

The sale, storage, manufacture and distribution of beer in the city is a privilege. No person shall be deemed to have a property right in any permit issued under this article nor shall the permit itself or the enjoyment thereof be considered a property right.

(Code 1981, § 4-35; Code 1998, § 6-184)

Sec. 6-173. - Restrictions upon distributors, wholesalers, warehousemen, manufacturers.

- (a) All distributors, wholesalers, warehousemen and manufacturers of beer shall be duly licensed under the law to do business in the state.
- (b) All distributors, wholesalers, manufacturers and warehousemen of beer having a place of business within the city shall locate the business in areas appropriately zoned.

- (c) It shall be unlawful for any wholesaler, distributor, warehouseman or manufacturer of beer or for any of his salesmen or representatives to sell or deliver beer en route or from delivery vehicles to any person or place other than a holder of a valid retail beer permit.
- (d) It shall be the duty of such wholesaler, distributor, warehouseman or manufacturer and his salesmen or representatives to ascertain whether or not such person or place has been issued a valid retail beer permit by the city.
- (e) Except as otherwise provided in this article no manufacturer, distributor or warehouseman shall sell beer to anyone except to a beer dealer holding a permit issued under this chapter.

(Code 1981, § 4-47; Code 1998, § 6-185; Ord. No. 6463, § II, 1-6-2015)

Sec. 6-174. - Dealing with minors.

- (a) As used in this section, the term "minor" means any person who has not attained the age of 21 years of age, except as provided by state law.
- (b) No permit holder shall sell, furnish, dispose of, give or cause to be sold, furnished, disposed of or given beer to a minor.
- (c) It shall be unlawful for the management of any place where beer is sold to allow any minor to loiter about such place or business, and the burden of ascertaining the age shall be upon the owner or operator of such place of business.
- (d) No person shall purchase beer for or at the request of a minor.
- (e) No minor shall knowingly make a false statement or exhibit false identification to the effect that the minor is 21 years old or older to any person employed in the sale of beer for the purpose of purchasing or obtaining beer.
- (f) It shall be unlawful for any person under the age of 21 years to sell, transport, dispense or have in his possession beer for any purpose; however, this shall not be construed as prohibiting any person 18 years of age or older from selling, transporting, possessing or dispensing beer in the course of his employment.

(Code 1981, § 4-52; Code 1998, § 6-186; Ord. No. 4508, § 1, 4-21-1998)

State Law reference— Similar provisions, T.C.A. § 57-5-301.

Sec. 6-175. - Other prohibited sales.

It shall be unlawful for any permittee or other person to sell or furnish any beer to any person who is known to be insane or mentally defective or to any person who is visibly intoxicated or to any person who is known to habitually drink alcoholic beverages to excess or to any person who is known to be an habitual user of narcotics or other habit-forming drugs.

(Code 1981, § 4-54; Code 1998, § 6-187)

Sec. 6-176. - Improper conduct on premises.

- (a) The beverage board shall not issue a beer permit, and shall revoke the beer permit of any permittee, including, but not limited to, private clubs, who knowingly or intentionally permits or allows any person to appear in the establishment or on the premises for which the permit was issued and to:

- (1) Publicly or openly perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any other sexual acts prohibited by law;
 - (2) Publicly or openly engage in the actual or simulated touching with the hand, facial area or mouth, or caressing, or fondling of the breasts, buttocks, anus or genitals;
 - (3) Publicly or openly engage in the actual or simulated display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state;
 - (4) Publicly or openly wear or use any device or covering exposed to public view which simulates the display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state;
 - (5) Employ, use or allow any person in the sale or service of food, wine, beer or other alcoholic beverages while such person is publicly or openly unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state;
 - (6) Employ, use or allow the services of any hostess or other person to mingle with patrons while such hostess or other person is unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state;
 - (7) Publicly or openly permit any person to use artificial devices or any inanimate objects to depict any prohibited activities described in subsections (a)(1) through (6) of this section;
 - (8) For the owner of the property or the owner of any business operated thereon or any employee thereof, allow or permit any person to remain in or upon the premises who is exposing to public view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or
 - (9) Publicly or openly show films, videotapes, laser discs, CD ROMS, electronic reproductions or other visual reproductions that involve movement depicting any of the following:
 - a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - b. Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals;
 - c. Scenes wherein the person displays the vulva, the anus or the genitals;
 - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this subsection (a)(9).
- (b) Nothing contained in this section shall be construed to prohibit persons of either sex from engaging in swimming or related activities while clad in attire customarily worn in the community for such purpose.
- (c) Nothing contained in this section shall be construed to prohibit the broadcast or display of any television program subject to regulation by the Federal Communications Commission of the United States on the permitted premises.

(Code 1998, § 6-188; Ord. No. 4338, § 1, 2-4-1997)

Secs. 6-177—6-205. - Reserved.

DIVISION 2. - PERMITS

Sec. 6-206. - Required.

It shall be unlawful for any person to sell, distribute, store or manufacture beer without first having made application to and obtained a permit from the beverage board.

(Code 1981, § 4-37; Code 1998, § 6-216)

Sec. 6-207. - Types designated.

The types of beer permits shall be as follows:

- (1) *On-premises permit.* An on-premises permit shall be issued for the consumption of beer on the premises. Provided the other requirements of this article are met, an on-premises permit shall be issued only to restaurants or eating places, nonprofit clubs, hotel or motel, and for certain temporary permits.
- (2) *Off-premises permit.* An off-premises permit shall be issued for sale of both refrigerated and unrefrigerated beer to be consumed off the premises.
- (3) *Multiple-type permit.* A multiple-type permit constitutes both an on-premises permit and an off-premises permit and shall be issued for both on-premises consumption and off-premises consumption. Anyone who has consumed beer on the premises shall be prohibited from purchasing beer for off-premises consumption when leaving the premises, except this prohibition shall not apply to permits issued to a manufacturer as part of a manufacturer's permit. Provided the other requirements of this article are met, a multiple-type permit shall be issued only to restaurants or eating places, nonprofit clubs, manufacturers, and for certain temporary permits.
- (4) *Manufacturer's permit.* This permit shall be issued to manufacturers upon whose premises beer is brewed or otherwise manufactured. A manufacturer's permit may include certain on-premises and/or off-premises retail sales, as hereinafter set out. A manufacturer's permit that includes on-premises and off-premises consumption, allows anyone who has lawfully consumed beer on the premises to purchase beer for off-premises consumption, when leaving the premises.
- (5) *Wholesaler's permit.* This permit shall be issued to operators who have a warehouse in the city and sell or otherwise distribute beer at wholesale.
- (6) *Other permits.* Permits that are otherwise authorized by this article.

(Code 1981, § 4-38; Code 1998, § 6-217; Ord. No. 4062, §§ I, II, 6-20-1995; Ord. No. 6463, § III, 1-6-2015; Ord. No. [6820](#), § I, 10-1-2019)

Sec. 6-208. - Application.

- (a) Any person desiring a permit to manufacture beer in the city, distribute beer at wholesale from a warehouse located in the city limits or to sell beer at retail to patrons or customers in the city limits shall make an application to the beverage board for a permit in writing upon a form prescribed by it. Such application shall, at a minimum, contain the following:
 - (1) The name and residence of the applicant and how long the applicant has resided there.
 - (2) The particular place for which the permit is desired, designating the place by street and number, if practicable, and, if not, by such other apt description as definitely locates it.
 - (3) The kind of permit desired.

- (4) The name of the owner of the premises upon which the business is to be carried on.
 - (5) A statement that the applicant is a citizen of the United States or an alien lawfully residing in the United States or, if a syndicate or association, that all the members thereof are citizens of the United States or aliens lawfully residing in the United States.
 - (6) A statement that no person will be employed in the storage, sale, manufacture or distribution of such beverages except those who are citizens of the United States or aliens lawfully residing in the United States.
 - (7) A statement that the applicant will not engage in the sale, storage, manufacture or distribution of beer except at the place for which the permit is issued to such applicant, and that no sale, storage, manufacturing or distribution of such beverage will be made except in accordance with the permit granted.
 - (8) A statement that no sale will be made to persons under 21 years of age, except as provided by state law, that the applicant will not permit minors or disorderly or disreputable persons or persons connected with the violation of the liquor laws to loiter around the place of business.
 - (9) A statement that the applicant has not had a license or permit for the sale, storage, manufacture or distribution of legalized beer revoked.
 - (10) A statement that neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture or sale of beer has ever been convicted of any violation of the law against prohibition, sale, manufacture, storage, distribution or transportation of intoxicating liquor or of any crime involving moral turpitude within the ten years preceding the filing of such application. For the purpose of this subsection, the term "moral turpitude" means premeditated murder, sex-related crimes, the selling of Schedule I and II controlled substances illegally and embezzlement.
 - (11) A statement that the applicant will conduct the business in person or as agent for the person, syndicate, association or joint stock company.
 - (12) A statement that no brewer, manufacturer, distributor or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be permitted to sell beer at retail is to be carried on, except as permitted by T.C.A. § 57-5-101(c).
 - (13) A statement that the applicant is willing to be fingerprinted by the police department and to be investigated by municipal, county, state and federal law enforcement agencies concerning the applicant's background and record.
 - (14) A statement by the applicant that he agrees to comply with all of the laws of the United States, the state and the city.
 - (15) An oath or affidavit by the applicant that the facts set forth in the application are true.
- (b) Any applicant making a false statement in the application for a beverage permit shall forfeit such applicant's permit, and such applicant shall not be eligible to receive any permit for a period of ten years.
- (c) Any applicant who submits an application three times to the beverage board and has it rejected three times cannot reapply for a period of one year from the date of the last rejection.

(Code 1981, § 4-39; Code 1998, § 6-218; Ord. No. 4258, §§ I, II, 7-16-1996; Ord. No. 6463, § IV, 1-6-2015)

Sec. 6-209. - Moral character, criminal record of applicant.

No beer permit shall be issued except to a person of good moral character who has not been convicted of any violation of the laws against manufacturing, selling, transporting, storing, distributing or

possessing intoxicating liquors or of selling or possessing beer illegally or of any crime involving moral turpitude, within ten years of the date of application, nor shall any permit be issued to any applicant that has a person, firm, corporation, syndicate, joint stock company or association having at least five percent ownership interest in the applicant or has officers or employees who have had such convictions. For the purposes of this section, the term "moral turpitude" includes, but is not limited to, premeditated murder, all sex-related crimes, selling of Schedule I and II controlled substances illegally and theft.

(Code 1981, § 4-41; Code 1998, § 6-219; Ord. No. 4258, § IV(4-41), 7-16-1996)

Sec. 6-210. - Private clubs.

- (a) No off-premises beer permit will be issued to a private club.
- (b) A private club holding an on-premises permit shall not allow a person under the age of 21 years to be a member.

(Code 1998, § 6-220; Ord. No. 4258, § V(4-42), 7-16-1996)

Sec. 6-211. - Compliance with zoning prerequisite.

No permit shall be issued to any person to manufacture, sell or distribute beer from or at any place, premises or location which constitutes a nonconforming use under the city zoning laws and ordinances in effect at the time of application for such permit, including the distance requirements contained in section 114-143 of this Code. However, this section 6-211 shall not apply to preexisting nonconforming uses.

(Code 1981, § 4-43; Code 1998, § 6-221; Ord. No. 6463, § V, 1-6-2015)

Sec. 6-212. - Separate permit required for each location.

A separate permit shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute or sell beer.

(Code 1981, § 4-44; Code 1998, § 6-222)

Sec. 6-213. - General restrictions on issuance of permits and business operations.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bona fide charitable or nonprofit organization means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

Bona fide political organization means any political campaign committee as defined in T.C.A. § 2-10-101(a) or any political party as defined in T.C.A. § 2-13 -101.

Outdoor service area means a patio, deck, courtyard, or other outdoor area, where the 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. The fencing or surrounding barrier need not be permanent but must consist of a barrier not less than 40 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. Examples of substantial materials would include but not be limited to securely connected planters, decorative fencing or other decorative architectural or landscaping materials. 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.

(b) *Restaurants and eating places (on-premises)*. The issuance of beer permits for restaurants and eating places pursuant to this chapter and the operation of such establishments shall be subject to the following:

- (1) Permits for the retail sale of beer for on-premises consumption shall be issued subject to the approval of the beverage board to the owner or operator of any regularly conducted restaurant or eating place. The applicant shall fulfill all other general requirements for the retail sale of beer prescribed in this chapter.
- (2) In addition, the restaurant or eating place shall be classified with a value of not less than passing as judged by appropriate state authorities.
- (3) No permit shall be issued to the owner or operator of any restaurant unless such owner or operator is the holder of a current, valid business license issued by the city.
- (4) If, after the issuance of a permit for on-premises consumption, the grade of passing is reduced by the appropriate state agency responsible for the grading of restaurants, the beverage board shall notify the permittee to appear before the beverage board to show cause why his permit should not be revoked. The beverage board shall have the authority to grant a temporary extension, not to exceed 90 days, for the permittee to make the corrections necessary and have the numerical grade increased to at least passing.
- (5) The restaurant or eating place must be kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served or provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for the permittee's guests. If it is shown that any permittee's premises are no longer meeting these regulations, the beverage board may cancel and revoke the permit.
- (6) No beer shall be served at tables, stools or booths or in any other manner or place outside of the building except when a beverage permit includes an approved outdoor service area or sidewalk cafe dining facility.

(c) *On-premises permits for operation of a hotel or motel*.

- (1) Hotel or motel shall have the same meaning as provided in T.C.A. § 57-4-102.
- (2) Hotels or motels holding on-premises permits shall sell beer only to persons who remain inside the establishment, or in the permitted service area, to consume the same.
- (3) Hotels or motels holding a license issued by the Tennessee Alcohol Commission for the sale of alcoholic beverages under T.C.A. § 57-4-201 et seq. (liquor by the drink) shall operate the establishment in accordance with the applicable provisions of state law and the rules and regulations of the commission.

(d) *Nonprofit club permits*.

- (1) Club permits may be issued to allow the sale of beer to be consumed on the premises of any nonprofit association, organized and existing under the laws of the state, which has been in existence and operating as a nonprofit association for at least two years prior to the application for a permit. The club shall:
 - a. Have at least 100 members regularly paying dues;
 - b. Be organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any shareholder or member; and

- c. Own, hire or lease a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for cooking, preparing and serving meals for its members and guests.
- (2) No member or officer, agent or employee of the club shall be paid or directly or indirectly receive, in the form of salary or other compensation, any profits from the sale of spirituous liquors, wines, champagnes or malt beverages beyond the amount of such salary as may be fixed by club members at an annual meeting or by the club's governing body out of the general revenue of the club.
 - (3) For the purpose of this subsection (c), tips which are added to the bills under club regulations shall not be considered as profits. The beverage board shall have specific authority through rules and regulations to define with specificity the terms used in this subsection (c) and to impose additional requirements upon applicants seeking a club permit not inconsistent with the definition in this subsection.
- (e) *Manufacturers.* Upon meeting the necessary federal, state and local license requirements and pursuant to T.C.A. section 57-5-101(c)(1) a manufacturer of beer may operate as a retailer at the manufacturer's location or a site contiguous thereto for sales of not more than 25,000 barrels of beer annually for consumption on- or off-premises, provided it meets the licensing requirements of this chapter for on- and off-premises permits.
 - (f) *Off-premises merchant's permits.* Off-premises permits shall be issued only to bona fide merchants who have been licensed to conduct a merchandising business in the city. For the purpose of this subsection, the term "bona fide merchants" means persons regularly operating and conducting business to serve the public on a regular basis, with regular business hours of operation. However, no such off-premises permit shall hereafter be issued for the sale of beer at any place of business where the sale of beer is to be made directly to an automobile and its occupants by means of drive in window facility. It shall be unlawful to sell or give beer through a drive-in window to an automobile, its occupants or to any person outside the drive-in window. It shall be unlawful for any permittee to construct a drive-in window or to alter in any manner his place of business so as to permit the sale of beer through a drive-in window to an automobile, its occupants or to any person outside the drive in window.
 - (g) *Temporary (special event) permits.* Temporary beer licenses or permits shall be governed by the following provisions:
 - (1) *Newly annexed business:* Temporary beer licenses or permits not to exceed 30 days' duration may be issued at the discretion of the secretary of the beverage board to newly annexed businesses which hold a valid county beer permit. The beverage board, at its next regular meeting, may make only one extension of the temporary permit for no longer than 30 days.
 - (2) *One event permit for private businesses:* Temporary beer licenses or permits not to exceed 24-hour duration may be issued by the beverage board at the request of the applicant upon the same conditions governing permanent permits. For the purposes of these provisions, the same conditions governing permanent permits shall apply to temporary permits and shall include the application for a temporary beer license or permit, a fee of \$50.00, and a written plan detailing how the event will be conducted in order to provide for a safe and controlled environment. Such a temporary license or permit shall not allow the sale, storage or manufacture of beer on publicly owned property.
 - (3) *One event permits for nonprofit organizations:* A temporary license authorizing the sale of beer on public property may be issued to a bona fide charitable or nonprofit organization or bona fide political organization, subject to the approval of the appropriate governmental authority charged with the management of such publicly owned property and the beverage board. Documents showing evidence of the type of organization shall be submitted with the application. Such a temporary license or permit shall be limited to two events per organization in any 12-month period.

- (4) *Multiple event permit for nonprofit organizations:* Subject to the submission of a proper application and the payment of the application fee, the beverage board is authorized and empowered in its discretion to issue special event licenses to bona fide charitable or nonprofit organization for special events with the duration of said license being for a period of not more than one year. No single special event shall be longer than 72 hours in duration. The beverage board may issue a special event license under such terms, conditions, rules and regulations as the beer board may establish which are not inconsistent with state law regulating the sale of beer.
- (5) *Notice of intent to conduct a special event.* Any person, organization or other entity with a special event license conducting an event during which beer is to be sold shall provide at least 30 days' advance written notice to the chairperson of the beverage board, with a copy to the city recorder, of the intent to conduct such a special event. The notice required by this part shall include, but not necessarily be limited to, the following information:
- a. Date and time of the event;
 - b. The sponsor of the event;
 - c. The specific location where any beer is to be sold outside;
 - d. Any plans for proposed temporary closure of public rights-of-way;
 - e. Plans for security and policing of the event;
 - f. The anticipated number of persons attending the event;
 - g. Plans for clean up during and after the event;
 - h. Plans for sanitary facilities and for safety inspections as determined needed by the fire department;
 - i. Indemnification: A written agreement that will indemnify and hold the city, its officials and employees harmless from any claim resulting from the event; and
 - j. Liability insurance: Provide to the city from an insurance company authorized to do business in the state a comprehensive general liability insurance policy, applicable to the serving of beer at the event and providing insurance coverage for all liabilities including death, personal injury or property damage, arising out of, or in any way related to, the event described, in the amount of \$1,000,000.00 combined single limits. Such insurance shall be in a form satisfactory to the city's risk manager, shall include an endorsement naming the city as additional insured under the coverage afforded, shall be primary and noncontributing with respect to any other insurance available to the city, shall contain a severability of interest (cross liability) clause, and shall require the insurer to provide to the city at least 30 days' prior notice of cancellation. Proof of such insurance, also in a form satisfactory to the city's risk manager, shall be filed with the risk manager prior to the date of the event of the sponsoring organization.

Upon receipt of the notice as required in this subsection (e)(5), the proposed special event shall be placed on the agenda of the beverage board for its next regularly scheduled meeting following receipt of the notice, and the sponsor of the proposed event shall send a representative or representatives (both a representative of the nonprofit organization and a representative of the professional organization running the event, if applicable) to the beverage board meeting to address any questions or issues arising out of the proposed special event.

- (6) *The Downtown District:* The beverage board is hereby authorized and empowered in its discretion to permit the sale of beer in the downtown district, being the area bounded by Main Street, Clinchfield Street, Sullivan Street and Wexler Street, and also including the area across Main Street in the 100 and 200 blocks, to a bona fide charitable or nonprofit organization holding a temporary permit or a special event license at such times and events and under such terms, conditions, rules and regulations as the beverage board may establish which are not inconsistent with state law regulating the sale of beer, and including the temporary closure of

public rights-of-way within the area with the express permission and cooperation of the city police department and city transportation department.

- (h) *Purchase from source other than licensee prohibited.* No charitable, nonprofit or political organization possessing a temporary permit or special occasion licenses shall purchase for sale or distribution beer from any source other than a licensee as provided pursuant to state law.
- (i) *Special permits for sale in certain areas.* Beer permits shall not be valid for any sidewalk, street, alley, or other public right-of-way contiguous or adjacent to the permitted establishment. Provided, however, in the downtown business area, as defined in section 90-74, the beverage board may issue a special beer permit for such areas, if the permitted establishment obtains and maintains a permit for sidewalk cafe dining facility from the department of public works as set out in chapter 90, article III, division 2, pertaining to sidewalk dining facilities. The sale, service or distribution of beer in the sidewalk cafe dining facility shall be under terms, conditions, rules and regulations as the beverage board shall establish, including but not limited to the length and periods of time during which a special permit may be valid, which are not inconsistent with state law regulating the sale of beer. Such terms, conditions, rules, and regulations may include the requirement of the submission to the beverage board of the following information:
 - (1) The identity of such person who is requesting the special permit;
 - (2) The site plan for the outdoor seating area showing where any beer is to be sold, served, or consumed, the specific location of any furniture and equipment and how the area of public right-of-way is to be separated from the remainder the public right-of-way or property; The safety and liability measures already taken and those that shall continue to be taken by such person with respect to the outdoor serving area.

The person requesting the special permit shall send representatives to the beverage board meeting to address any questions or issues that may arise regarding the request. Notwithstanding any other provisions of this chapter to the contrary, beer shall not be dispensed from any outdoor bar or serving station. Further, the issuance of a special permit by the beverage board pursuant to this subsection (g) does not authorize any person to utilize the public right-of-way in the downtown business area for any purpose without express permission granted by the department of public works in the form of a permit for a sidewalk cafe dining facility.

- (j) *Manufacturer's permit.* Permits for the manufacture of beer shall be issued in accordance with the general requirements of this chapter and the following:
 - (1) A permit authorizing the manufacture, storage, sale and distribution of beer, not to be consumed on the premises of the manufacturer, except as otherwise provided hereinafter may be issued. In addition to the manufacture and storage of beer, a manufacturer's permit shall authorize the sale and distribution of the beer through the standard non-retail system to the extent allowed by applicable law.
 - (2) A manufacturer of beer can include in its application a request for the privilege of retail sale for on-premises and/or off premises consumption of the beer pursuant to T.C.A. § 57- 5-101(c), at the manufacture's location or a site contiguous thereto for sales of not more than 25,000 barrels of beer annually for consumption on or off the premises.
 - (3) A manufacturer's permit that authorizes the manufacture of beer may include, pursuant to T.C.A. § 57-5-101(c), the privilege of conducting on-premises retail sales, even though it does not maintain or have a regularly conducted restaurant or eating place.
 - (4) A manufacturer's permit that authorizes the manufacture of beer and pursuant to T.C.A. § 57-5-101(c) the sale of beer for off-premises consumption shall be sold for off-premises consumption in sizes and containers that are made available through the general wholesale/retail distribution system, including such containers generally known as growlers.
 - (5) A manufacturer's permit that authorizes for retail sales may take place within the same store licensed by the state alcohol beverage commission for the sale of high alcohol content beer, provided the other requirements of this chapter are met.

- (6) Documentation by the manufacturer of the number of barrels sold each calendar year may be required by the beverage board.
- (k) *Wholesaler's permit.* Permits for the wholesale sale of beer for operators who have a warehouse in the city and sell or otherwise distribute beer at wholesale, shall be issued in accordance with the general requirements of this chapter and such rules established by the beverage board not in conflict with the provisions of this chapter.

(Code 1981, § 4-48; Code 1998, § 6-223; Ord. No. 4258, § VI, 7-16-1996; Ord. No. 4457, § 1, 11-18-1997; Ord. No. 5401, § V, 5-2-2006; Ord. No. 5810, §§ IV, V, 2-17-2009; Ord. No. 6367, § II, 12-3-2013; Ord. No. 6463, § VI, 1-6-2015; Ord. No. [6820](#), § II, 10-1-2019)

Sec. 6-214. - Inspection of premises.

It shall be the duty of the police department to inspect the place of business and premises of the holder of a permit issued under this division. It shall be unlawful for any permittee to refuse to permit any such inspection during any time that such place is open for business.

(Code 1981, § 4-55; Code 1998, § 6-224)

Sec. 6-215. - Display.

Every person issued a permit under this division shall display and keep displayed his beer permit in a conspicuous place on the premises where he is licensed to conduct such business.

(Code 1981, § 4-45; Code 1998, § 6-225)

Sec. 6-216. - Transferability.

- (a) Beer permits and receipts for the payment of any fees required to be paid pursuant to the provisions of this chapter shall not be transferable. The holder of a beer permit may not sell, give, trade, assign, or transfer the permit to any other person, firm, corporation, or other entity. When any permittee intends to cease to engage in the beer business, he shall notify the secretary of the board, in writing, of that intent at least 15 days in advance of the cessation.
- (b) When any permittee shall cease to engage in the beer business, changes ownership, relocates the business or changes the name of the business, including, but not limited to, a trade name, a "doing business as" name, the name used by the business to the public, or in any other manner, the permit shall automatically expire or terminate, and such permit shall be immediately surrendered to the city recorder.

(Code 1981, § 4-46; Code 1998, § 6-226; Ord. No. 4337, § 1, 2-4-1997)

Sec. 6-217. - Establishment of regular hours of operation.

- (a) Every person issued a permit under this division shall establish regular hours of operation, and such hours shall be submitted to the secretary of the beverage board in writing and shall be posted in the establishment at all times. No change of operational hours will be permitted without submitting the hours in writing to the secretary of the board, and any deviation from those hours could be cause for suspension or revocation of the permit.

- (b) A permit will be void if an establishment does not operate the business during its normal operational hours for 30 days or more without a specific variance from the beverage board for good cause shown.

(Code 1998, § 6-227; Ord. No. 4258, § III(4-40), 7-16-1996)

Sec. 6-218. - Hours of operation.

It shall be unlawful for any permit holder to sell, furnish, dispose of or give or cause to be sold, furnished, disposed of or given beer between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays. No beer shall be consumed or opened for consumption on or about any premises permitted under this division, in either bottle, glass or other container after 3:15 a.m.

(Code 1981, § 4-50; Code 1998, § 6-228)

State Law reference— Authority for fixing of hours by municipality, T.C.A. § 57-5-301.

Sec. 6-219. - Loitering around place of business.

It shall be unlawful for any person issued a permit under this division to allow a person to loiter around the place of business.

(Code 1981, § 4-53; Code 1998, § 6-229)