

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

1. INTOXICATING LIQUORS--PACKAGE STORES.
2. INTOXICATING LIQUORS--HOTELS, RESTAURANTS, ETC.
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**CHAPTER 1****INTOXICATING LIQUORS--PACKAGE STORES****SECTION**

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**8-101. Definitions.** Whenever used in this chapter unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverages" and "intoxicating liquor" 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) contains an alcoholic content of five (5) percent by weight or less.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

(2) "Retail sale" or "sale at retail" means a sale to a consumer, or to any person for any purpose other than for resale.

(3) "Retailer" or "dealer" means any person who sells at retail any beverage covered by this ordinance.

(4) "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, Title 57, chapter 5.

(5) "Person" means any natural person as well as any corporation, partnership, firm or association.

(6) "City council" refers to the governing body of the City of La Vergne, Tennessee.

(7) "City" means the City of La Vergne, Tennessee.

(8) "City administrator" means the City Administrator for the City of La Vergne.

(9) "City recorder" means the City Recorder of the City of La Vergne.

(10) "Domicile" means and includes present and continuous actual physical residence with an established permanent residence.

(11) Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (1994 Code, § 8-101)

**8-102. Scope of chapter.** It shall be unlawful to store, transport, sell, give away, distribute, possess and receive alcoholic beverages in the city unless provision of this chapter and the laws of the State of Tennessee and the State Rules and Regulations of the Alcoholic Beverage Commission have been complied with.

Nothing in this chapter regulates the transportation, storage, sale, distribution, possession or receipt of or tax upon any beverage of alcoholic content of five (5%) by weight or less, and no ordinance related thereto is modified by this chapter. (1994 Code, § 8-102)

**8-103. State laws to be complied with.** No person, firm, corporation, association or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (1994 Code, § 8-103)

**8-104. Content of application for certificate of compliance.**

(1) Before any person shall receive a license for the establishment of an off-premise consumption retail liquor sales outlet, the applicant shall make application for a certificate as required by Tennessee Code Annotated, § 57-3-208. The application for the certificate shall be in writing and shall be filed with the city recorder giving the following information:

(a) For an individual applicant:

- (i) Name, date of birth, and address of the applicant;
- (ii) Number of years residence in the state;

- (iii) Occupation or business and length of time engaged in such occupation or business;
  - (iv) Whether or not the applicant has been convicted of a felony within the past ten (10) years;
  - (v) If employed, the name and address of the employer;
  - (vi) If in business, the kind of business and location thereof;
  - (vii) The name of any person who will have any interest, direct or indirect, in the business of the applicant or in the profits thereof and the nature and extent in character thereof.
- (b) If applicant is a partnership:
- (i) Partnership name and address;
  - (ii) Names, dates of birth, and addresses of all partners indicating separately those partners who are general partners and those who are limited partners, if any and, for each partner, showing the name of such partner, such partner's profit sharing percentage in the partnership, and the business or occupation of each such partner;
  - (iii) A copy of the partnership agreement shall be attached as an exhibit to the application;
  - (iv) Whether any general partner has been convicted of a felony within the past ten (10) years;
- (c) If applicant is a corporation:
- (i) Name of the corporation, state of incorporation and date of qualification to do business in Tennessee if the state of incorporation is other than Tennessee;
  - (ii) List of names, dates of birth, and addresses of all officers of the corporation;
  - (iii) List of names, dates of birth, and addresses of all directors of the corporation;
  - (iv) List of the names, addresses, percent of outstanding stock owned or controlled and business or occupation of each stockholder of the corporation owning ten (10) percent or more of the outstanding stock of each class of said corporation;
  - (v) Whether any officer or director has been convicted of a felony within the past ten (10) years;
  - (vi) A copy of the charter of the corporation shall be attached as an exhibit to the application.
- (d) Additional information from all applicants:
- (i) The location of the proposed facility for the sale of alcoholic beverages;
  - (ii) The name, date of birth, and address of the owner and the amount of rent to be paid;

(iii) The amount of money invested or to be invested and the source of funds to be used, and, if borrowed, the name of the person or bank from whom borrowed; the name of the bank with which the applicant does business; the name of any person who is aiding the venture financially, either by loan or endorsement;

(iv) The name of any person who will have any interest, direct or indirect, in the business of the applicant or the profits thereof and the nature and extent and character thereof other than those persons previously identified.

(2) The application required herein shall be verified by the oath of the applicant and in the event the applicant is a partnership, it shall be verified by the oath of the managing general partner or if the applicant be a corporation, it shall be verified by the oath of the president of the corporation.

Each application for a certificate of compliance for off-premise consumption shall pay a non-refundable application fee of two hundred and fifty dollars (\$250.00) to the city recorder.

(3) The applicant must complete and return with the application any documents or forms that the chief of police or city attorney may require in order to conduct an investigation on the applicant. (1994 Code, § 8-104)

**8-105. Processing applications.** (1) Applications for the renewal of the certificate of compliance will be processed in the same manner and under the same conditions as a new application. Certificates 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 certificate application fee. This fee shall be remitted to the city recorder on or before January 1st of each year. If the certificate holder fails to pay the fee by January 10th of each year, the certificate of compliance will be revoked and a certification thereof will be forwarded to the Alcoholic Beverage Commission of the State of Tennessee and the license to said application shall be considered to have been canceled and revoked.

(2) Application for employee's permit to serve as an employee in the place of business of a retail liquor store under the provision of Tennessee Code Annotated, § 57-3-204 shall submit the name of such employee to the Chief of Police of the City of La Vergne. (1994 Code, § 8-105, modified)

**8-106. Applicant to appear before board of mayor and aldermen; duty to give information.** An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (1994 Code, § 8-106)

**8-107. Action on application.** (1) Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of

mayor and aldermen within thirty (30) days of the date each application was filed.

(2) Upon the filing of an application for a new license or for the transfer of an existing license to a new location, the city administrator, or his designee, shall promptly and conspicuously post the proposed premises with a clean, neat and legible sign, approximately twenty-four (24) inches by thirty-six (36) inches, stating the name and address of the applicant, the nature of the application, and the date that the application is to be originally considered by the board of mayor and aldermen, said sign to be placed on the premises at least ten (10) days prior to the date on which the application is to be originally acted upon by the board.

(3) The applicant shall place a notice in a newspaper of general circulation concerning the applicant's intent to seek a license from the Tennessee Alcoholic Beverage Commission. The notice shall contain such information as is prescribed in the Rules of the Tennessee Alcoholic Beverage Commission and shall appear for at least three (3) consecutive issues immediately preceding the date that the applicant applies to the City of La Vergne for a certificate of compliance.

(4) The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (1994 Code, § 8-107)

**8-108. Restrictions on operators of retail liquor stores.** (1) No person, member of a firm, corporation, or partnership shall operate a retail store for the sale of alcoholic beverages herein defined if he 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.

(2) Age limit. No retailer or any employee thereof engaged in any activity covered by this section shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer or employee to permit any such person under said age on his place of business to engage in the sale of alcoholic beverages. Further, it shall be unlawful for any minor to misrepresent his age in purchasing or attempting to purchase alcoholic beverages.

(3) Employees. No retailer shall employ in the sale, storage, 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 or of any law regulating intoxicating liquors, and in the case an employee should be so convicted, he shall immediately be discharged.

(4) Transfer or sale of license. 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.

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

(6) Restrictions cumulative. The provisions of this section shall be in addition to any other restrictions or conditions which may be contained elsewhere in the provisions of this chapter. (1994 Code, § 8-108, as replaced by Ord. #2012-27, Jan. 2013)

**8-109. City privilege license.** The privilege license shall be levied on the business in accordance with the provisions of the "Business Tax Act" as enacted by the 87<sup>th</sup> General Assembly of Tennessee, by Chapter 387 of the Public Acts of 1971, as amended. (1994 Code, § 8-109)

**8-110. Regulation of sales.** (1) Hours of sales on weekdays. Retail dealers in alcoholic beverages shall not engage in the sale of such beverages except between the hours of 8:00 A.M. and 11:00 P.M. on weekdays and Saturdays.

(2) Sales on Sundays. No retailer shall sell or give away an alcoholic beverage between 11:00 P.M. on Saturday and 8:00 A.M. on the following Monday of each week.

(3) Sales on holidays. No retailer shall sell or give away any alcoholic beverages on the following holidays: Christmas Day, Thanksgiving Day, Labor Day, New Year's Day, and the Fourth of July.

(4) Sales to minors. No retailer shall sell or give away any alcoholic beverages to any person under twenty-one (21) years of age, and it shall be unlawful for any such minor to purchase any alcoholic beverages. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21) years of age.

(5) Keeping an unsealed bottle or container. No retailer of alcoholic beverages shall keep or permit to be kept upon his premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(6) Sales to person intoxicated. No retailer shall sell or give away any alcoholic beverages to any person who is drunk, nor shall any retailer sell or give away any alcoholic beverages to any person accompanied by a person who is drunk.

(7) Sales on credit. No holder of a permit 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.

(8) Unstamped merchandise. No retailer shall own, store, or possess upon the premises any unstamped merchandise required by laws of the State of Tennessee to have affixed thereto revenue stamps of the state.

(9) Political advertising. No political advertising of or for any candidate or party by poster, handout card, matches or other similar election campaign material shall be placed or dispensed on the premises of a retail liquor store.

(10) Consumption on premises. No alcoholic beverages shall be sold for consumption or consumed on the premises of a retail package seller. (1994 Code, § 8-110)

**8-111. Location restrictions.** (1) It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the City of La Vergne unless said location of the liquor store shall be on Murfreesboro Road or Waldron Road / Parthenon Parkway, in either Zone C-2, C-3, or C-4 as appears on the official zoning map of the City of La Vergne on the date of application.

(2) In no event will a store be allowed when it is 500 feet or nearer to any church, school, public playground, public institution or commercially zoned, licensed daycare center, measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the church, school, public playground, public institution or commercially zoned, licensed daycare center.

(3) In no event will a store be allowed when it is 1 mile or nearer to any other retail liquor store, measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the existing retail liquor store. Provided, further, that no certificate of compliance shall be issued by the mayor and/or city council in any case until the location of said proposed liquor store has been approved by the city council.

(4) As a further limitation on the location of retail liquor stores for the sale of alcoholic beverages, no location for same shall be approved when in the opinion of the city council, expressed by a majority vote thereof, the operation of such liquor store at the location would be inimical to the public interest. (1994 Code, § 8-111)

**8-112. Retail store restrictions.** (1) No retail liquor store shall be located except on the ground floor and it shall have one main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) streets, such retail store may maintain a door opening on each of the public streets. All buildings shall be in compliance with the state regulations for the operation of retail liquor stores.

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

(3) All liquor stores shall be of a modern, permanent type construction and no store shall be located in a mobile home or other movable type building. All liquor stores shall have night lighting surrounding the outside of the premises and shall be equipped with a burglar alarm system on the inside of the premises. The minimum square footage of the liquor store retail floor space shall be 1,800 square feet. All retail sales shall be confined to the premises of the structure and no curb service shall be permitted nor shall drive-thru windows be permitted. (1994 Code, § 8-112)

**8-113. Inspection fees.** (1) The City of La Vergne hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city.

(2) Collection. The inspection fee shall be collected by the wholesaler and transmitted to the city recorder not later than the 20<sup>th</sup> day of each month for the preceding month. Each wholesaler making sales to licensees located within the corporate limits of the City of La Vergne, Tennessee, shall furnish the municipality a monthly report, which report shall contain a list of the alcoholic beverages sold in each licensee located within the municipality, the wholesale price of the alcoholic beverages sold to each licensee, the amount of the inspection fee due and such other information as may be required by the municipality. The inspection fees collected by the wholesalers from the licensee or licensees located within the municipality shall be paid to the municipality at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the municipality shall be entitled to reimbursement for this collection services a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the municipality.

(3) The failure of the wholesaler to collect or timely report and/or pay the inspection fees collected shall result in a penalty in the amount of ten percent (10%) of the inspection fee due the municipality, which shall be payable to the municipality.

(4) The municipality shall have the authority to audit the records of the wholesalers and/or licensees subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers and/or licensees. (1994 Code, § 8-113)

**8-114. Restriction on number of stores.** Not more than one (1) license shall be issued for each seven thousand five hundred (7,500) persons or fraction thereof within the corporate limits of the city, according to the last



certified federal or state census, whether regular or special. (1994 Code, § 8-114)

**8-115. Time period.** Any applicant who has obtained a certificate of compliance from the mayor and a majority of the city council, as provided herein above, must, within six (6) months open a store for the retail sale of alcoholic beverages to the public or said certificate of compliance will be automatically revoked by the passage of said time, and a certification thereof will be forwarded immediately to the Alcoholic Beverage Commission of the State of Tennessee and the license issued to said application shall be considered to have been canceled and revoked. (1994 Code, § 8-116)

**8-116. Violations and penalties.** Any violation of the provisions of this ordinance shall constitute a misdemeanor and shall, upon conviction be punishable by a fine of not less than fifty (\$50.00) dollars. Upon conviction of any person under this ordinance, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, §§ 57-3-101 to and including 57-3-110 and the rules and regulations of said commission. (1994 Code, § 8-117)

## CHAPTER 2

### INTOXICATING LIQUORS--HOTELS, RESTAURANTS, ETC.

#### SECTION

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**8-201. Scope of chapter.** It shall be unlawful to store, transport, sell, give away, distribute, possess and receive alcoholic beverages in the city unless provision of this chapter and the laws of the State of Tennessee and the State Rules and Regulations of the Alcoholic Beverage Commission have been complied with.

Nothing in this chapter regulates the transportation, storage, sale, distribution, possession or receipt of or tax upon any beverage of alcoholic content of five (5%) by weight or less, and no ordinance related thereto is modified by this chapter. (1994 Code, § 8-201)

**8-202. State laws to be complied with.** No person, firm, corporation, association or partnership shall engage in any retail business for consumption of alcohol on the premises unless all the necessary state licenses and permits have been obtained. (1994 Code, § 8-202)

**8-203. Privilege tax.** There is hereby levied against all retail establishments selling at retail in this city any alcoholic beverages for consumption on the premises, a privilege tax pursuant and identical to the provisions of Tennessee Code Annotated, § 57-4-301, which is incorporated herein by reference as though the same were fully set forth herein, and those privilege taxes provided in that section are levied at the same amounts by the City of La Vergne, Tennessee. This section shall apply to private clubs as well as hotels and motels and all other establishments enumerated in that statute.

The amounts of privilege taxes as set out in Tennessee Code Annotated, § 57-4-301 shall be for the calendar year in which is paid and shall expire on January 1<sup>st</sup> of each year. The privilege tax for the new calendar year shall be

submitted to the city recorder on or before January 10<sup>th</sup> of each year. If a new license is approved during a calendar year, the license holder shall pay a pro rata portion of the privilege taxes set out herein. If the privilege taxes are not submitted to the city recorder on or before January 10<sup>th</sup> of each year or within 10 days of receiving a new license, the certificate of compliance shall be revoked and a certification thereof will be forwarded to the Alcoholic Beverage Commission of the State of Tennessee and the license to said application shall be considered to have been canceled and revoked. (1994 Code, § 8-203)

**8-204. Certificate of good moral character required.** Each applicant for a license to sell alcoholic beverages for consumption on the premises of any hotel, restaurant or club must first obtain a certificate of good moral character, on a form provided by the city recorder, signed by the Mayor of the City of La Vergne. The certificate shall state:

(1) That the applicant is personally known to the mayor and the board of aldermen and is a person of good moral character; or

(2) That the applicant is not personally known to the mayor and the board of aldermen, but that the city has made careful investigation of the applicant's general character and from such investigation, has determined it to be good.

Consideration of each application for a certificate shall be undertaken at a regular or specially called meeting of the board of mayor and aldermen and approved by the vote of at least three (3) members thereof.

Each applicant for a certificate of good moral character is deemed to consent, by virtue of his application, to an investigation of his general character including, but not limited to, the determination of any record of convictions. (1994 Code, § 8-204)

**8-205. Grounds for denial of certificate of good moral character.** It shall be grounds for denial of the certificate of good moral character that:

(1) The applicant has been convicted of a felony or, if a corporation, that any executive officers or those in control have been convicted of a felony; or

(2) The applicant has been convicted of a crime involving moral turpitude. (1994 Code, § 8-205)

**8-206. Certificate of compliance required.** Each applicant for a license to sell alcoholic beverages for consumption on the premises of any hotel, restaurant or club must obtain, in addition to the certificate of good moral character, a certificate of compliance signed by the public works director. Each applicant shall pay a non-refundable application fee of two hundred and fifty dollars (\$250.00) to the city recorder. The certificate shall state:

(1) That the proposed use is a permitted use or is existing legally and is allowable in the zone in which it is located; and

(2) That the establishment for which the certificate is sought provides separate sanitary facilities for men and women, conforming to the building code, located within the area where business is conducted; and

(3) That all seating on the ground level is covered by a permanent roof; and

(4) That the establishment for which the certificate is sought has a seating capacity of at least seventy-five (75) people at tables, except restaurants which are seeking a "wine only" liquor license must have a minimum of fifty (50) seats; and

(5) That the establishment for which the certificate is sought is in compliance with the location restrictions listed in § 8-210 of the La Vergne Municipal Code; and

(6) That the premises either have:

(a) A certificate of occupancy issued by the City of La Vergne;

or

(b) A memorandum signed by the building official in the codes department stating that the premises were constructed prior to the effective date of this chapter and does not have a certificate of occupancy; and that the city neither offers nor expresses an opinion as to the compliance (or lack thereof) of the premises with regard to any building, health or safety codes.

It shall be grounds for denial of the certificate of compliance if the applicant fails to meet each and every requirement of this section. (1994 Code, § 8-206, modified)

**8-207. Hours of sale.** No licensee shall permit alcoholic beverages to be consumed on the licensed premises between the hours of 3 A.M. and 8 A.M. on Monday through Saturday or between the hours of 3 A.M. and 12 noon on Sunday. (1994 Code, § 8-207)

**8-208. City privilege license.** The privilege license shall be levied on the business in accordance with the provisions of the "Business Tax Act" as enacted by the 87<sup>th</sup> General Assembly of Tennessee, by Chapter 387 of the Public Acts of 1971, as amended. (1994 Code, § 8-208)

**8-209. Regulation of sales.** (1) Sales to minors. No retailer shall sell or give away any alcoholic beverages to any person under twenty-one (21) years of age, and it shall be unlawful for any such minor to purchase any alcoholic beverages. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21) years of age.

(2) Sales to person intoxicated. No retailer shall sell or give away any alcoholic beverages to any person who is drunk, nor shall any retailer sell or give away any alcoholic beverages to any person accompanied by a person who is drunk.

(3) Sales on credit. No holder of a permit 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.

(4) Unstamped merchandise. No retailer shall own, store, or possess upon the premises any unstamped merchandise required by laws of the State of Tennessee to have affixed thereto revenue stamps of the state.

(5) Political advertising. No political advertising of or for any candidate or party by poster, handout card, matches or other similar election campaign material shall be placed or dispensed on the premises.

(6) No form of entertainment, including pinball machines, game tables, pool tables, or similar devices, shall be permitted to operate upon any premises for which alcoholic beverages are sold for consumption on the premises.

(7) No permit shall be issued authorizing on-premises consumption of alcoholic beverages unless the place of business for which a permit for on-premises consumption sells food prepared for on-premises consumption as a normal, regular and integral part of its every day activities and unless such food is available for purchase during the same hours that alcoholic beverages are sold for on-premises consumption. It shall be grounds for revocation of an existing permit for an on-premises consumption if the total dollar volume of sales of the permit holder attributable to such food is less than sixty percent (60%) of the total dollar volume of sales of such food and alcoholic beverages combined.

In determining the ratio of food sales to combined food and alcoholic beverages sales, the permit holder may, at holder's option, utilize sales figures for any one of the following three time periods:

- (a) Most recent calendar year;
- (b) Most recent fiscal year of holder;
- (c) Most recent consecutive 12 month period.

If the permit holder also holds a City of La Vergne beer permit, the beer sales shall be combined with the alcoholic beverages sales to get the final ratio.

Any holder or applicant who has less than 12 months continuous operating history immediately preceding the filing of an application upon which to determine compliance may nevertheless retain a license previously issued or file an application and, if otherwise qualified, be granted a permit for on premises consumption, provided the holder or applicant submits an affidavit to the best of the holder's or applicant's knowledge, information or belief that holder or applicant will, during the initial 12 months of permitted on premises consumption of alcoholic beverages, be in compliance with the required percentage so as to meet the requirements of this chapter.

The holder of an on premises consumption permit or license shall file with the city recorder on or before July 1 of each year, financial information in form and content sufficient in the opinion of the city recorder to demonstrate actual compliance by the permit or license holder with the 60% ratio requirement of food sales to total combined food and alcoholic beverages sales for holder's applicable 12 month period. In lieu of submitting financial data, holder may

submit the statement of holder's accountant, submitted on the accountant's letterhead stationary and signed by said accountant attesting to the accountant's verification of compliance by holder with this provision of this chapter. Holder's failure to establish compliance with said ration requirement on or before July 1 of each year, shall be grounds for the certificate of compliance to be revoked and a certification thereof will be forwarded to the Alcoholic Beverage Commission of the State of Tennessee and the license to said application shall be considered to have been canceled and revoked. (1994 Code, § 8-209)

**8-210. Location restrictions.** (1) For the purposes of this section, the following words, terms and phrases are hereby defined. Terms not hereby defined shall have their standard dictionary definition or such as the context may imply.

(a) School. A school as referred to herein shall be a public or private institution, including kindergarten, where regular classes are conducted under the supervision of a state licensed teacher or instructor, including schools or colleges where specialized subjects are taught to students of all ages. Such term shall include vocational, medical, law, art, cosmetology, and other institutions where similar special subjects are taught.

(b) Church. A church as referred to herein shall be a building or property where church services are regularly held at least one day per week and the premises are occupied for church purposes only.

(c) Licensed daycare center. A licensed daycare center as referred to herein shall be any home or business that is licensed by the State of Tennessee to provide daycare services to children. The licensed daycare center may exist in either a residential or commercial zoning district.

(d) Public playground or park. A public playground or park as referred to herein shall be any property owned by the City of La Vergne and operated by the parks and recreation department. For the purposes of this chapter, the front boundary of Bicentennial Park, located behind the police department at 5093 Murfreesboro Road, begins at the rear of the parking area and impound lot behind the police department building.

(2) Any restaurant applying for a license to sell alcoholic beverages for consumption on the premises in the City of La Vergne shall be located in either Zone C-2, C-3, or C-4 as appears on the official zoning map of the City of La Vergne on the date of application. In no event will a restaurant be allowed when it is within two hundred (200) feet of any school, church, licensed daycare center or public playground or park. This distance is to be measured in a straightline from the closest point of the building from which the alcoholic beverages will be sold for consumption on the premises, and the nearest point on the building of the school, church or licensed daycare center, or in the case

of a public playground or park from the closest point of the applicant's building to the closest point in the nearest boundary of the public playground or park, however, if the applicant leases space in a shopping center or strip mall the two hundred (200) foot distance shall be measured in a straightline from the closest point of the nearest outside wall of the applicant's leased space to the closest point of the building of the school, church or licensed daycare center. These distance regulations shall not apply to a school, church or licensed daycare center that is located on property in a shopping center or strip mall.

(3) Any hotel or club applying for a license to sell alcoholic beverages for consumption on the premises in the City of La Vergne shall be located in either Zone C-2, C-3, or C-4 as appears on the official zoning map of the City of La Vergne on the date of application. In no event will a hotel or club be allowed when it is within 500 feet of any school, church, licensed daycare center or public playground or park. This distance is to be measured in a straightline from the closed point of the building from which the alcoholic beverages will be sold for consumption on the premises, and the nearest point on the building of the school, church or licensed daycare center, or in the case of a public playground or park from the closest point of the applicant's building to the closest point in the nearest boundary of the public playground or park, however, if the applicant leases space in a shopping center or strip mall the five hundred (500) foot distance shall be measured in a straightline from the closest point of the nearest outside wall of the applicant's leased space to the closest point of the building of the school, church or licensed daycare center. These distances regulations shall not apply to a school, church or licensed daycare center that is located on property in a shopping center or strip mall. (1994 Code, § 8-210)

**8-211. Revocation of beer permit reported to ABC.** When any person, firm, or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the Alcoholic Beverage Commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the person, beer board, or city council is considering the suspension or revocation of such beer permit, consideration shall also be given to suspending the licensee's license for the sale of intoxicating liquors for the consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said person, beer board, or city council shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-202. (1994 Code, § 8-212)

**8-212. Prohibited sexual or pornographic conduct.** Tennessee Code Annotated, § 57-4-204 is hereby incorporated herein as if copied verbatim in its entirety. The La Vergne Police Department is hereby authorized and directed to investigate and police the places of business holding a license to sell

intoxicating liquors for consumption on premises and shall report violations to the Alcoholic Beverage Commission as authorized by Tennessee Code Annotated, § 57-4-204(e). (1994 Code, § 8-213)



## CHAPTER 3

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

#### SECTION

- 8-301. Beer board established.
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- 8-324. Beer permit governing law--amendments.
- 8-325. Conflicts.

**8-301. Beer board established.** There is hereby established a beer board to be composed of five (5) members appointed by the mayor, who shall also have authority to remove any appointive member at his/her pleasure without cause. Members may be removed by the board of mayor and aldermen at the request of the chairman of the board or committee and the city recorder, if the member is absent from two (2) or more scheduled meetings in a row. A chairman shall be elected annually by the board from among its members. All members

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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).

of the beer board shall serve without compensation. A member shall be appointed for a four (4) year term. Members shall be eligible for re-appointment. Vacancies shall be filled by an appointment by the mayor with the affirmation of the board of mayor and aldermen to serve out the remainder of the vacating member's term. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011, and Ord. #2011-26, Oct. 2011)

**8-302. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold a regular monthly meeting on the third Tuesday of each month at 6:00 P.M. When there is other business to come before the beer board, a special meeting may be called by the chairman provided that reasonable notice can be given to the public and each member. The board may recess a meeting at any time to another time and place. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

**8-303. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-304. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be treated as not being present for the total number of votes available. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-305. 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 city in accordance with the provisions of this chapter. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-306. Beer business lawful but subject to regulation.** It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five percent (5%) by weight or any other beverage of like alcoholic content within the corporate limits

of the City of La Vergne, subject to all the regulations, limitations, and restrictions provided by Tennessee Code Annotated, title 57, chapter 5, or other laws of the state and subject to the rules provided herein. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-307. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-308. Definitions.** The following words, terms and phrases are hereby defined as follows and shall be interpreted as such throughout this chapter. Terms not hereby defined shall have their standard dictionary definition or such as the context may imply.

(1) "Beer." Beer as referred to herein shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.

(2) "Church." A church as referred to herein shall be a building or property where church services are regularly held at least one (1) day per week and the premises are occupied for church purposes only.

(3) "Clerk." A person working in a capacity to sell beer directly to consumers for off-premises consumption.

(4) "Licensed daycare center." A licensed daycare center as referred to herein shall be any home or business that is licensed by the State of Tennessee to provide daycare services to children. The licensed daycare center may exist in either a residential or commercial zoning district.

(5) "Public playground or park." A public playground or park as referred to herein shall be any property owned by the City of La Vergne and operated by the parks and recreation department. For the purposes of this chapter, the front boundary of Bicentennial Park, located behind the police department at 5093 Murfreesboro Road, begins at the rear of the parking area and impound lot behind the police department building.

(6) "Premises." A building, portion of a building, or property that is utilized for a particular business enterprise.

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

(8) "Responsible vendor program." The program under which vendors and clerks can be certified.

(9) "School." A school as referred to herein shall be a public or private institution, including kindergarten, where regular classes are conducted under the supervision of a state licensed teacher or instructor, including schools or colleges where specialized subjects are taught to students of all ages. Such term shall include vocational, medical, law, art, cosmetology, and other institutions where similar special subjects are taught.

(10) "Shopping center or strip mall." A shopping center or strip mall as referred to herein shall be any group of at least three (3) stores and/or restaurants located in a commercial zoning district that share a common parking lot.

(11) "Vendor." A person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption.

(12) "Wholesaler." Any person who sells beer to retailers. Such term shall include a distributor, manufacturer, brewer or brewery branch making sales of beer directly to retailers or as otherwise defined by Tennessee Code Annotated, § 57-5-101. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-309. Licenses for certain premises prohibited.** (1) No license shall be issued to sell beer or other beverages coming within the provisions of this chapter in violation of any provision of the state law, or within two hundred feet (200') of any school, church, licensed daycare center, or public playground or park. This distance is to be measured in a straightline from the closest point from the building from which the beer will be sold, and the nearest point on the building of the school, church or licensed daycare center, or in the case of a public playground or park from the closest point of the applicant's building to the closest point in the nearest boundary of the public playground or park, however, if the applicant leases space in a shopping center or strip mall the two hundred foot (200') distance shall be measured in a straightline from the closest point of the nearest outside wall of the applicant's leased space to the closest point of the building of the school, church or licensed daycare center. These distance regulations shall not apply to a school, church or licensed daycare center that is located on property in a shopping center or strip mall.

(2) If the application is for a new location and there is a question regarding the distance regulations, the applicant for a beer permit shall submit with his application a measurement made by a licensed surveyor and the distance certified as being correct. The work of the surveyor shall be checked and verified by the codes department.

(3) Any business possessing a valid permit to sell beer prior to the effective date of the ordinance comprising this chapter may continue to have a valid permit to sell beer.

(4) Any business that comes into non-compliance with the distance requirements of this section because of the construction or location of a school,

church, licensed daycare center, public playground or park, after a valid permit has been issued, may continue to possess a permit to sell beer.

(5) When a business not conforming with the provisions of this section is discontinued or abandoned for a period of thirty (30) consecutive days, then no application for a business not in conformance with the provisions of this section shall thereafter be approved.

(6) No license shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda fountain drinks, merchandise, or commodities, other than serving meals and lunches; provided, nothing in this section shall prevent sale or consumption in dining rooms and lunch rooms of stores where such rooms are separated and distinct from other departments.

(7) No license shall be issued to sell any beverage coming within the provisions of this chapter in a room or place used to carry on the business of playing at pool or billiards except in the front of such rooms or place which is separated from the other part of the building by a partition or wall and where there is a regularly licensed restaurant or lunch room occupying such room separated from the game room by partitions or walls.

(8) The judgment of the beer board on such matters shall be final except as same is subject to court review. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-310. Application for and issuance or refusal of license.** Before any license is issued by the recorder, the applicant shall file with the La Vergne Beer Board a sworn petition in writing establishing the following facts which are hereby made conditions of any permit issued. The making of any false statement by an applicant for a permit in his application shall be sufficient ground, reason, and cause for the revocation of the permit issued to him by the beer board.

(1) The application shall designate the location of the premises where the business will be conducted and shall name the owner or owners of such premises.

(2) The applicant shall not engage in the sale of such beverages except at the place or places for which the La Vergne Beer Board has issued a license or licenses to said applicant.

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

(a) No permit shall be issued authorizing on-premises consumption of beer unless the place of business for which a permit for on-premises consumption sells food prepared for on-premises consumption as a normal, regular and integral part of its every day activities and unless such food is available for purchase during the same hours that alcoholic beverages are sold for on-premises consumption. It shall be grounds for revocation of an existing permit for an on-premises

consumption if the total dollar volume of sales of the permit holder attributable to such food is less than sixty percent (60%) of the total dollar volume of sales of such food and beer combined. In determining the ratio of food sales to combined food and beer sales, the permit holder may, at holder's option, utilize sales figures for any one of the following three (3) time periods:

- (i) Most recent calendar year;
- (ii) Most recent fiscal year of holder;
- (iii) Most recent consecutive twelve (12) month period.

If the permit holder also holds a license to sell intoxicating liquors from the Alcoholic Beverage Commission, the alcoholic beverage sales shall be combined with the beer sales to get the final ratio. Any holder or applicant who has less than twelve (12) months' continuous operating history immediately preceding the filing of an application upon which to determine compliance may nevertheless retain a license previously issued or file an application and, if otherwise qualified, be granted a permit for on-premises consumption, provided the holder or applicant submits an affidavit to the best of the holder's or applicant's knowledge, information or belief that holder or applicant will, during the initial twelve (12) months of permitted on-premises consumption of beer, be in compliance with the required percentage so as to meet the requirements of this chapter. The beer board may issue a conditional three (3) or six (6) month permit to ensure that the ratio is being met. The holder of an on-premises consumption permit or license shall file with the city recorder on January 1 of each year, certified financial information in form and content sufficient in the opinion of the city recorder to demonstrate actual compliance by the permit or license holder with the sixty percent (60%) ratio requirement of food sales to total combined food and beer sales for holder's applicable twelve (12) month period. In lieu of submitting financial data, holder may submit the statement of holder's accountant, submitted on the accountant's letterhead stationary and signed by said accountant attesting to the accountant's verification of compliance by holder with this provision of this chapter. Permit holder shall allow the city to audit the permit holder's business records if there is a question as to whether the ratio requirement has been met. Holder's failure to establish compliance with said ratio requirement on or before January 31 of each year, shall be grounds for the beer permit to be revoked by the La Vergne Beer Board. It shall be grounds for revocation of an existing permit if the permit holder for an on-premises beer permit makes a false statement on the certified financial information submitted to the city. If a false statement is made, the permit holder shall be prohibited from obtaining another beer permit for a period of ten (10) years.

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

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

(d) If the application is for a license to sell for consumption off the premises, no sale shall be made for consumption on the premises. Furthermore, no consumption shall be allowed on the premises or property of the applicant. All such beverage shall be kept for sale in original sealed containers and all beverage shall be carried out in its original packaging or packaged for carry-out in a bag or box.

(4) No sale shall be made to a person under the age of twenty-one (21). No sale shall be made to a person who is obviously intoxicated. The applicant shall not permit minors or any disorderly or disreputable person or persons previously convicted for violation of the liquor laws to loiter around or frequent his place of business.

(5) The applicant shall not allow any liquors or beverages of alcoholic content greater than five percent (5%) by weight to be brought into his premises for consumption therein unless said applicant has a current license from the Alcoholic Beverage Commission to sell alcoholic liquors or beverages with an alcoholic content greater than five percent (5%) for consumption on the premises.

(6) Neither the applicant nor any person employed by him in the distribution, sale, or manufacture of beer shall have been convicted of any violation of the laws of the State of Tennessee against the sale, manufacture, possession, or transportation of beer of intoxicating liquors or any misdemeanor or felony within the past ten (10) years.

(7) The applicant shall conduct the business in person for himself. If the applicant is acting as agent, the application shall state the person for whom the applicant intends to act.

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

(9) The applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state.

(10) The La Vergne Beer Board shall consider each application filed and grant or refuse the license according to its best judgment of the facts and circumstances. The action of the La Vergne Beer Board in granting or refusing a license shall be final except as same is subject to court review.

(11) A background check shall be performed on the applicant when a beer permit application is submitted for a permit.

(12) If an application for a beer permit has been considered and denied by the beer board, the beer board shall not consider another application from the same individual to sell beer at the same location until the expiration of a ninety (90) day period. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-311. Minors.** It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase or obtain any alcoholic beverage where such beverage is sold. It shall be unlawful for any parent or guardian to permit any person under the age of twenty-one (21) years of age of which he/she may be parent or guardian to violate any provision of this section. It shall be unlawful for any person to misrepresent his/her age for the purposes of purchasing or obtaining alcoholic beverages from any premises where a permit has been issued and alcoholic beverages are sold. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-312. Suspension of license.** Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. The beer board shall have the power to revoke any permits, upon notice to the permittee and hearing thereon, for any violation of any provision of this chapter. Notice of a hearing shall be sent by the city recorder to the permittee and postmarked at least five (5) business days prior to the hearing, stating the particular violations of this chapter upon which the hearing will be held. The board shall examine or cause to be examined, any witnesses, books, records, and may take such testimony as proof as is required and shall have the power to compel the presence of witnesses by the issuance of subpoenas for the purpose of obtaining all information required for such hearing. The permittee shall be entitled to representation by counsel and the board shall keep a full and complete transcript of the proceeding before the board. The board shall make public the date and time of such hearing. At the hearing the permit holder or any other interested person may have the right to present evidence as to the facts of said violation and any other fact which may aid the board in determining whether this chapter has been violated and the purposes of the permit have been abused. At the hearing, if the board determines that a witness or other information necessary for the just determination of the issue before the board is not present, the board may recess the hearing to a date and time certain not to exceed thirty (30) days to compel the attendance of witnesses or production of information required for such hearing. If the board determines that the terms and conditions of the permit have been violated, the board shall then proceed to enact such penalties as may be required under § 8-313 of this chapter. The board shall also have the power to revoke or suspend any permits if the permittee:



- (1) Operates a disorderly place;
- (2) Permits boisterous or disorderly conduct on the premises;
- (3) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude;
- (4) Permits minors to congregate about the premises;
- (5) Sells or transfers the equipment or assets of the business authorized by a permit to another for the purpose of conducting the business on the same premises, unless the permittee notifies the beer board in writing immediately upon such sale or transfer, and shall surrender his permit within thirty (30) days after said sale or transfer. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-313. Penalties; revocation and suspension period.** (1) If it is determined by the beer board that a violation of this chapter has occurred under the procedures provided for in § 8-312, then the board shall revoke any permit previously granted, for a period of not less than one (1) year. If, however, it should appear to the board that such violation should not result in an outright revocation, but that the permittee should have his/her permit suspended, then the board is specifically authorized to suspend such permit for a period of time said revocation or suspension shall be in effect, and further said revocation or suspension shall preclude the issuance of a permit to any other person or persons, partnerships or corporations.

(2) During the revocation or suspension period, no beer shall be sold or consumed on the premises and the permit holder shall post a notice provided by the city setting forth the grounds for the suspension or revocation of the beer permit.

(3) No permit or license shall be revoked on the grounds the holder of any permit, or any person working for the holder of such permit, sells alcoholic beverages to a person over the age of eighteen (18) if such person exhibits an identification, false or otherwise, indicating their age to be twenty-one (21) or over, if the appearance as to maturity is such that the holder of the permit or his employee might reasonably presume said person to be of such age and is unknown to such person making the sale. Said permit may be suspended for a period not to exceed ten (10) days. However, this shall not be construed in any way to relieve the said person from liability for making such an illegal purchase as provided for in § 8-311.

(4) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a “responsible vendor” qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk’s illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk’s original certification, unless the vendor’s status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor’s certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified

as a responsible vendor. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

It is the duty of the permittee to advise the beer board of participation in the responsible vendor program and provide proof thereof at the time of the hearing.

(5) If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-607, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sep. 2008, and replaced by Ord. #2010-26, Jan. 2011)

**8-314. Licenses may be issued to hotels, motels, clubs, and lodges.**

A license may be issued for the sale of any beverage coming within the provisions of this chapter in hotels, motels, clubs, or lodges, subject to all the limitations and restrictions contained in Tennessee Code Annotated, title 57, chapter 5, and subject to the limitations and restrictions provided by this chapter. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-315. Posting and duration of permit.** (1) The permit shall be posted in a conspicuous place in the place of business.

(2) If a business ceases operation for any reason, then the permit issued shall automatically expire. 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.

(3) For the purposes of this chapter, "ceases operation" shall mean that the permit holder ceases to operate the business for which the permit was obtained for a period of sixty (60) days or more. A business that sustains damage due to a fire or an act of God that requires the business to close for renovation shall not be considered to have ceased operations as long as the business owner begins operating the business within twelve (12) months. If the business temporarily ceases operation during a beer permit suspension or revocation period, this shall not be considered to have ceased operations as long as the business owner begins operating the business after the suspension or revocation has ended.

(4) If a permit holder shall die, then the permit shall expire upon death of the permittee and shall not descend by the laws of testate or intestate devolution, provided, however, that the legal representative of the estate shall be allowed to continue the operation of said business for a period of sixty (60)

days from the death of said permittee, during which time the legal representative, or a successor to the business, shall be allowed to apply for a permit without interruption of the business.

(5) In the event of a change of ownership, the permit issued shall automatically expire. The permit holder shall notify the beer board in writing immediately upon said change of ownership. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

**8-316. Filing, investigation of, and action on applications.**

Applications for license shall be filed with the recorder who shall make an investigation. The police department may assist in the investigation. Upon completion of said investigation, the recorder shall submit the application and recommendations to the La Vergne Beer Board at its next meeting. The beer board shall consider the application and shall endorse its action thereon. If approved, the recorder shall issue a license. 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. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-317. Sales prohibited during certain hours and on certain days.**

No sale of any beverage coming within the provisions of this chapter shall be made between the hours of 3:00 A.M. and 5:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. Sunday and 12:00 P.M. (noon) Sunday. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-318. Prohibited acts--by permit holders, agents or employees.**

It is unlawful for any beer permit holder or his agent or employee:

(1) To knowingly employ any person convicted for the possession, sale, manufacturing or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years;

(2) To allow any person under eighteen (18) years of age to loiter or congregate about the premises. The burden of ascertaining the age of minor persons shall be on the permit holder and his agent or employee. When a minor is seated at a table, there shall be no beer served at the table unless such minor is accompanied by one or both of his parents or legal guardian, but only if served in conjunction with food;

(3) To knowingly allow beer to be passed from a lawful purchaser or possessor to a minor for consumption on the premises of the permit holder. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permit holder and his agent or employee;

(4) For a retailer to knowingly sell to a lawful purchaser who purchases beer for consumption by a minor. The burden of ascertaining the age

of persons who may lawfully possess beer shall be on the permit holder and his agent or employee;

(5) Make or allow any sale to any intoxicated, insane or otherwise mentally incapacitated person;

(6) Allow any intoxicated person to loiter on or about his premises;

(7) For a retailer or wholesaler, to store beer in any place other than the address listed on the permit;

(8) To sell or allow to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer;

(9) To allow gambling or gambling devices of any kind or description contrary to state law on the premises;

(10) To allow solicitation for purposes of prostitution on the premises;

(11) To allow or engage in any criminal activity on the premises.

(12) To knowingly employ any person that does not have the legal right to work in the United States. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

**8-319. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of La Vergne, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

**8-320. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a non-refundable civil penalty not to exceed the maximum penalty permitted pursuant to the provisions of Tennessee Code Annotated, § 57-5-108, which is incorporated herein by reference as though the same were fully set forth herein.

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

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

be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #2007-5, April 2007, as amended by Ord. #2008-14, Sept. 2008, and replaced by Ord. #2010-26, Jan. 2011)

**8-321. Changes of location for a valid beer permit.** If a business changes its location, the permit issued shall automatically expire. The permit holder shall notify the beer board in writing immediately upon said change of location. (Ord. #2007-5, April 2007, as replaced by Ord. #2010-26, Jan. 2011)

**8-322. Wholesalers, distributors, manufacturers--governing law.** Wholesalers, distributors, and manufacturers shall be governed by Tennessee Code Annotated, § 57-5-101, any successor statutes, and/or by any other controlling laws and/or rules or regulations promulgated by the State of Tennessee and/or the United States of America. (as added by Ord. #2010-26, Jan. 2011)

**8-323. Only sale to permittee authorized.** It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any persons, other than the holders of valid retail beer permits or as otherwise allowed by Tennessee Code Annotated, § 57-5-101, and it shall be the duty of such wholesaler, distributor or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (as added by Ord. #2010-26, Jan. 2011)

**8-324. Beer permit governing law--amendments.** Beer permits shall be governed by existing City of La Vergne, State of Tennessee, or United States of America law, rules, or regulations as amended. From time to time, the parameters of this title may be changed by the City of La Vergne in its sole discretion and/or the laws and/or rules and/or regulations promulgated by the State of Tennessee and/or United States of America may be changed by the State of Tennessee or the United States of America. Every permit shall be governed by the changes in the parameters as described above regardless of when the permit was issued and no property right shall attach to any particular version of the City of La Vergne title, the State of Tennessee law, or United States law. (as added by Ord. #2010-26, Jan. 2011)

**8-325. Conflicts.** Conflicts with this title and the laws of the State of Tennessee and/or the United States of America shall be resolved in favor of the laws of the State of Tennessee and/or the United States of America. In the event that any of the regulations found within this title are in conflict with the laws and/or other binding rules and/or regulations promulgated by the State of Tennessee and/or the United States of America, the laws and/or other binding

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rules and/or regulations promulgated by the State of Tennessee and/or the United States of America shall control. (as added by Ord. #2010-26, Jan. 2011)