

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ALCOHOLIC BEVERAGE PRIVILEGE TAX.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate of good moral character.
- 8-103. Applicant to agree to comply with law.
- 8-104. Applicant to appear before board of mayor and alderman; duty to give information.
- 8-105. Action on application.
- 8-106. Residency requirement.
- 8-107. Applicants for certificate who have criminal record.
- 8-108. Only one establishment to be operated by retailer.
- 8-109. Where establishments may be located.
- 8-110. Retail stores to be on ground floor; entrances.
- 8-111. Limitation on number of retailers.
- 8-112. Sales for consumption on premises.
- 8-113. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-114. Inspection fee.
- 8-115. Violations.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57. (1979 code, § 2-101, as replaced by Ord. #96-6, § 1, March 1996)

8-102. Application for certificate of good moral character. Before any character certificate, as required by Tennessee Code Annotated, section

¹State law reference

Tennessee Code Annotated, title 57.

57-3-208 or a renewal as required by 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city clerk on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each application shall be accompanied by a non-refundable investigation fee of two hundred and fifty dollars (\$250.00). (1979 code, § 2-102, as replaced by Ord. #96-6, § 1, March 1996)

8-103. Applicant to agree to comply with law. The applicant for a certificate was of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the state for the sale of alcoholic beverages. (1979 code, § 2-103, as replaced by Ord. #96-6, § 1, March 1996)

8-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character 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. (1979 code, § 2-104, as replaced by Ord. #96-6, § 1, March 1996)

8-105. Action on application. Every application for a certificate of good moral character 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.

The mayor or a majority of the board of mayor and aldermen may issue a certificate of moral character to any applicant.

The certificate shall expire unless the State of Tennessee has issued a valid liquor license to the applicant within sixty days of the date of the certificate. (1979 code, § 2-105, as replaced by Ord. #96-6, § 1, March 1996)

8-106. Residency requirement. The applicant for a certificate of good moral character shall have been a bona fide resident of Lincoln County for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Lincoln County not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, section 57-3-204, for seven (7) consecutive years. (1979 code, § 2-106, as replaced by Ord. #96-6, § 1, March 1996, and amended by Ord. #97-8, July 1997)

8-107. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or vinting of wine shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (1979 code, § 2-107, as replaced by Ord. #96-6, § 1, March 1996)

8-108. Only one 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. (1979 code, § 2-108, as replaced by Ord. #96-6, § 1, March 1996)

8-109. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, but in no event shall any establishment be located within five hundred (500) feet of a hospital, church or school, or any other place of public gathering, measured in a straight line; between the buildings. (1979 code, § 2-109; as replaced by Ord. #96-6, § 1, March 1996 and Ord. #97-1, Jan. 1997)

8-110. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground

floor thereof. Each such store shall have only one main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (1979 code, § 2-110, as replaced by Ord. #96-6, § 1, March 1996)

8-111. Limitation on number of retailers. No more than four (4) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1979 code, § 2-111, as replaced by Ord. #96-6, § 1, March 1996, and Ord. #2006-2, Jan. 2006)

8-112. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (1979 code, § 2-112, as replaced by Ord. #96-6, § 1, March 1996)

8-113. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (1979 code, § 2-113, as replaced by Ord. #96-6, § 1, March 1996)

8-114. Inspection fee. The City of Fayetteville hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, section 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (1979 code, § 2-114, as replaced by Ord. #96-6, § 1, March 1996)

8-115. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city clerk to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (1979 code, § 2-115, as replaced by Ord. #96-6, § 1, March 1996)

8-116. Visible consumption or possession in certain areas regulated. Visible consumption or possession of alcoholic beverages in unsealed containers upon or in any vehicle upon, any public street, alley, sidewalk, or parking lot, within any governmental building, or upon any commercial or business parking lot or visible consumption or possession of alcoholic beverages in unsealed containers upon or in any vehicle upon, any private property without the permission of the owner or the person in legal control of the premises shall be a violation of this chapter. (1979 Code, § 2-122, as renumbered by Ord. #96-6, § 2, March 1996)

8-117. Beer regulations unaffected. No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five (5) per cent or less. (1979 Code, § 2-123, as renumbered by Ord. #96-6, § 2, March 1996)

CHAPTER 2

BEER¹

SECTION

- 8-201. Sale, transportation, distribution, etc., regulated.
- 8-202. Beverage board created; membership; terms.
- 8-203. Meetings of the beverage board.
- 8-204. Record of beverage board proceedings to be kept.
- 8-205. Requirements for beverage board quorum and action.
- 8-206. Powers and duties of the beverage board.
- 8-207. Permit required to sell, store, distribute, manufacture beer.
- 8-208. Classes of permits.
- 8-209. Limitations upon issuance of beer permits.
- 8-210. Contents of application for permit; qualifications of applicant and employees; application fee.
- 8-211. Suspension, revocation, expiration, or renewal of permits.
- 8-212. Permits for hotels, clubs, lodges.
- 8-213. All fees and taxes required to be paid.
- 8-214. Permit to be displayed.
- 8-215. Permits not transferable.
- 8-216. Prohibited activities by beer permit holders.
- 8-217. Wholesalers, distributors, manufacturers; restrictions as to places of business.
- 8-218. Same; sales authorized to permittees only.
- 8-219. Bond of retail licensee.
- 8-220. Minors; certain acts prohibited.
- 8-221. Hours for furnishing and/or consuming on licensed premises.
- 8-222. Sanitation requirements and standards for licensed premises; inspections; placement of signs.
- 8-223. Violation of chapter as grounds for suspension or revocation of permit.
- 8-224. Minors prohibited from being on premises.
- 8-225. Privilege tax.

8-201. Sale, transportation, distribution, etc., regulated. It shall be lawful within the City of Fayetteville to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five (5) per cent by weight, or any other beverage of like alcoholic content,

¹State law reference

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

subject, however, to the rules and regulations and restrictions and conditions which may be attached to any permit issued hereunder by the beverage board of the City of Fayetteville, Tennessee. (1979 Code, § 2-201)

8-202. Beverage board created; membership; terms. There is hereby created a board of three (3) members, to be known as the beverage board of the City of Fayetteville, Tennessee. The three (3) members shall be the mayor and two aldermen appointed by the mayor. Their terms of office shall coincide with their terms of office as mayor and aldermen. (1979 Code, § 2-202)

8-203. Meetings of the beverage board. All meetings of the beverage board shall be open to the public. The board shall hold regular monthly meetings at the municipal building whenever there is business to come before the beverage board. A special meeting of the beverage board may be called by its chairman provided he gives a reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place. (1979 Code, § 2-203)

8-204. Record of beverage board proceedings to be kept. The city clerk shall make a separate record of the proceedings of all meetings of the beverage 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 beverage permit issued by the board. (1979 Code, § 2-204)

8-205. Requirements for beverage board quorum and action. The attendance of at least a majority of the members of the beverage 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 deemed to have cast a "nay" vote. (1979 Code, § 2-205)

8-206. Powers and duties of the beverage board. The beverage board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1979 Code, § 2-206)

8-207. Permit required to sell, store, distribute, manufacture beer. No person shall engage in the storing, selling, distributing or manufacturing of beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowable by the statutory laws of the State of

Tennessee, or other beverage of like alcoholic content within the city, until he shall receive a permit to do so from the beverage board, which permit shall at all times be subject to all of the limitations and restrictions herein provided and such special restrictions or conditions as may be applied to a specific permit. (1979 Code, § 2-207)

8-208. Classes of permits. There shall be three (3) classes or kinds of permits issued by the beverage board as follows:

(1) Manufacturers. A "manufacturer's" permit to a manufacturer of beer, or any other beverage of an alcoholic content of not more than five (5) percent by weight, for the manufacture, possession, storage, sale, distribution, and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer.

(2) Off-sale. An "off-sale" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser upon or near the premises of such seller.

(3) On-sale. An "on-sale" permit to any person or legal organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his guests upon the premises of the seller, and provided such beverages may also be sold in hotel rooms or regularly conducted hotels and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(4) (a) Caterer's Permit. A caterer's permit shall be issued to any person who has obtained a caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to Tennessee Code Annotated, title 57, chapter 4 (T.C.A. § 57-4-101 et seq.), and who is engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the catered event site.

"Caterer" means a person or legal entity engaged in the business of offering food and beverage services for a fee at various locations, who (1) has a complete and adequate commercial kitchen facility; and (2) is licensed as a caterer by the Tennessee Department of Health. In addition to the other requirements of this chapter:

(b) No caterer's permit shall be issued to a person who does not hold a valid caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to Tennessee Code Annotated, title 57, chapter 4 (T.C.A. § 57-4-101 et seq.). Should the holder of a caterer's permit cease to hold a valid caterer license from the state alcoholic beverage commission, such as caterer's permit shall be automatically deemed revoked by the board.

(c) The caterer shall be hired for a fee in order to qualify for a caterer's permit and the catered event shall not be initiated by the caterer.

(d) No caterer's permit shall be valid for the sale and consumption of beer on any premises for which a retailer's "on-sale" permit has been revoked within the past twelve (12) month period, nor shall a caterer's permit be used for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the establishment that has had a retailer's "on sale" permit revoked within the past twelve (12) month period.

(e) A caterer's permit is valid for each catering site. (1979 Code, § 2-208, as amended by Ord. #2007-24, Oct. 2007)

8-209. Limitations upon issuance of beer permits. No permit shall be issued by the beverage board:

(1) In violation of any provisions of state law.

(2) In violation of the zoning ordinance of the City of Fayetteville.

(3) At any location where the sale of beer or other beverages will cause congestion of traffic, interference with schools, churches, or other places of public gatherings, or otherwise interfere with public health, safety and morals.

(4) At any location for "on premises consumption" which is not enclosed except that temporary beer licenses or permits not to exceed ten (10) days duration during any twelve (12) month period may be issued for locations that do not meet this criteria.

(5) Definition of enclosed. For the purposes of this section, enclosed shall include any outdoor area that is separated by an ornamental railing or fence constructed of materials similar to those of the exterior of the main structure, with chain link fences specifically excluded and separated from vehicular traffic, including parking areas and protected from traffic hazards. Enclosed area shall not intrude upon any public walkway or right of way. (1979 Code, § 2-209, as amended by Ord. #2001-10, July 2001)

8-210. Contents of application for permit; qualifications of applicant and employees; application fee. (1) Before any permit is issued by the beverage board, the applicant therefor shall file with the beverage board a sworn petition in writing on forms prescribed by and furnished by the board and shall establish the following:

(a) The owner or owners of such premises.

(b) [Deleted.]

(c) That the applicant will not engage in the sale of such beverages except at the place or places for which the beverage board has issued a permit or permits to such applicant.

(d) That no sale of such beverages will be made except in accordance with the permit granted.

(e) That if the application is for a permit to sell "not for consumption on the premises," no sale will be made for consumption on the premises and that no consumption will be allowed on the premises.

(f) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons hereto connected with the violation of liquor laws to loiter around the place of business.

(g) The beverage board may require the applicant to secure a certificate or a statement from the health officer that the premises which the application covers meets the requirements of section 2-222 of this chapter.

(h) That the applicant will not allow any beer with an alcoholic content greater than such weight, volume, or alcoholic content as allowed by the laws of the State of Tennessee, to be consumed on his premises.

(i) That neither the applicant nor any persons employed or to be employed by him in such distribution or sale of such beverage has ever been convicted of any violation of the law against prohibition, sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(j) That the applicant will conduct the business in person for himself or, if he is acting as agent, the applicant shall state the person, firm, or corporation, syndicate, association, or joint stock companies for whom and only for whom, the applicant intends to act.

(k) That no beer shall be sold from coin-operated dispensers.

(2) No manufacturer, wholesaler, or retailer, or any employee thereof, engaged in the physical manufacture, storage, sale, or distribution of alcoholic beverages shall be a person under the age of eighteen (18) years and it shall be unlawful for any wholesaler or retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the manufacture, storage, sale or distribution of alcoholic beverages.

(3) Each applicant at the time of filing an application for a permit as provided hereunder shall pay a non-refundable application fee of two hundred fifty dollars (\$250.00) to partially defray the cost of investigation of such application and no such application shall be considered until said fee has been paid to the city clerk. The beverage board shall have thirty (30) days after the filing of an application with the city clerk in which to investigate the applicant and his premises and act on the application.

(4) Temporary beer licenses or permits not to exceed thirty (30) days duration may be issued upon the same conditions governing permanent permits. Provided however, such a temporary license or permit shall not allow the sale, storage or manufacture of such beer on public owned property. (1979 Code, § 2-210, modified, as amended by Ord. #97-1, Jan. 1997)

8-211. Suspension, revocation, expiration, or renewal of permits.

(1) All permits subject to suspension, revocation. All permits issued by the beverage board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

The beverage board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500.00 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000.00 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.

(2) Authority of board. The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

(3) Complaints. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board.

(4) Notice to appear; contents; service. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the city. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.

(5) Effect of board action. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (1979 Code, § 2-211)

8-212. Permits for hotels, clubs, lodges. It shall be lawful for the beverage board to issue a permit for the sale of any beverage coming within the provisions of this chapter to hotels, clubs, or lodges, subject to the limitations and restrictions contained in the state law and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit required by this chapter and any ordinance amendatory hereof. (1979 Code, § 2-212)

8-213. All fees and taxes required to be paid. Each applicant granted a permit to sell any beverage coming within the provisions of this chapter shall, before engaging in such sale, pay all proper city taxes and business fees. (1979 Code, § 2-213)

8-214. Permit to be displayed. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1979 Code, § 2-214)

8-215. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to location or as to successor by purchase or otherwise, of the business for which the permit was issued, and in either case a new permit is required in the manner provided herein. (1979 Code, § 2-215)

8-216. Prohibited conduct or activities by beer permit holders. It shall be unlawful and it is hereby declared to be a misdemeanor for any person engaged in the business regulated hereunder,

(1) To make, or to permit to be made, any sales or distribution of such beverages to minors or to persons intoxicated;

(2) To allow any person under twenty-one (21) years of age to have in his or her possession beer for any purpose except in the course of his or her employment or make or allow any sale of beer to any person under twenty-one (21) years of age.

The burden of ascertaining the age of customers shall be upon the owner or operator of such place of business;

(3) To fail to provide proper sanitary facilities where such beverage is permitted to be consumed on-premises;

(4) To sell or distribute beverages at any place where pool or billiards are played, unless the sale or distribution of such beverage is made in the front of such room or place where a partition wall separates the place from the pool or billiard parlor;

(5) To permit minors or disorderly or intoxicated persons to loiter on the premises;

(6) To permit any person to be employed on the premises in violation of any provision of this chapter; or

(7) Permit any employee of the license holder to dispense, serve, sell or give away alcoholic beverages which term means and includes alcohol, spirits, liquor and wine with an alcoholic content of more than five (5) percent by weight but this prohibition shall not apply to any license holder also licensed under Tennessee Code Annotated, §§ 57-4-101 to 57-4-308.

(8) Permit the consumption on the premises of any permit holder of alcoholic beverages which term means and includes alcohol, spirits, liquors and

wine with an alcoholic content of more than five percent (5%) by weight but this prohibition shall not apply to any permit holder also licensed under Tennessee Code Annotated, section 57-4-101 to 57-4-308.

(9) To allow any loud, unusual or obnoxious noises to emanate from the premises.

(10) To allow the place of business to become a public nuisance to law enforcing agencies of the City of Fayetteville, or create a nuisance or materially contribute to creating or maintaining a public nuisance.

(11) The owner and operator shall be held strictly accountable for any actions of his or her employees which violate any of the above provisions. (1979 Code, § 2-216, as amended by Ord. #96-19, Dec. 1996; and further amended by Ord. #98-3, §§ 1 and 2, April 1998, and Ord. #2006-11, Sept. 2006)

8-217. Wholesalers, distributors, manufacturers; restrictions as to places of business. No wholesaler of alcoholic beverages regulated herein shall maintain more than one place of business. However, the beverage board in its discretion may issue a special permit to any distributor to allow said distributor to store beer in a warehouse or building apart from the building from which the business is conducted. In addition, such distributors are authorized to store draft beer, for refrigeration purposes only, in one additional ice house or refrigeration plant under the following conditions:

(1) For the purpose of this chapter, any employee of such ice house or refrigeration plant who may be in any manner connected with the sale or distribution of beer stored therein shall be deemed to be an employee of the wholesaler or distributor when beer is so stored, and any violation of this chapter or any provision of the beer law by such employee shall be deemed to be a violation by said wholesaler or distributor.

(2) Except sales from trucks from duly authorized salesmen, or as otherwise provided herein, no beer shall be transferred from, sold in, stored in, brought to rest in, sold from, possessed in, receipted for at, manufactured, wholesaled, or distributed from any other place, building or location, except from said building, place, or location set out and called for in the wholesaler's, distributor's, or manufacturer's beer permit, and/or said ice house or refrigeration plant and no beer shall be transferred to a retailer or any other purchaser except from the location called for in said wholesaler's, distributor's, or manufacturer's beer permit, and/or said ice house or refrigeration plant, by any wholesaler, distributor, or manufacturer, their salesmen or authorized representatives. (1979 Code, § 2-217)

8-218. Same; sales authorized to permittees only. 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 and it shall be the duty of such wholesaler, distributor, or manufacturer, their

salesmen or representatives, to ascertain whether or not each purchaser is a holder of a valid retail beer permit. (1979 Code, § 2-218)

8-219. Bond of retail licensee. Every person, prior to being issued a license to sell at retail within the city any beverages permitted to be sold hereunder, shall file with the clerk of the county court the bond required under Tennessee Code Annotated, § 57-5-107. (1979 Code, § 2-219)

8-220. Minors; certain acts prohibited. (1) Purchase, possession. It shall be unlawful for any minor to purchase or attempt to purchase any beverage hereunder and the possession of such beverage by any minor upon the premises of an on-premises permittee shall be prima facie evidence of such unlawful purchase.

It shall be unlawful for any person under the age of twenty-one (21) years to have in his or her possession beer for any purpose, and it shall be unlawful for any such minor to transport beer for any purpose except the same be in the course of his employment.

(2) Falsifying age. It shall be unlawful for any minor to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase or otherwise procuring or attempting to procure such beverage.

(3) Court having jurisdiction. Any minor who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and shall be taken before the county juvenile judge for appropriate disposition.

(4) Definition of minor. For purposes of this chapter, a minor is any person under the age of twenty-one years. (1979 Code, § 2-220)

8-221. Hours for furnishing and/or consuming on licensed premises. It shall be unlawful for holders of permits for the sale of beer for consumption on the premises or for the sale of packaged beer not for consumption on the premises to sell, lend, or give away or allow any sale, lending or giving away of beer between the hours of 3:00 o'clock a.m. and 6:00 o'clock a.m. on any day or at any time on Sunday after 3:00 o'clock a.m. before 12:00 o'clock noon. No beer shall be consumed or opened for consumption on or about the premises of a permittee for the sale of beer for consumption on the premises after 3:15 o'clock a.m. (1979 Code, § 2-221, as amended by Ord. #96-2, § 1, Jan. 1996; and replaced by Ord. #96-18, Nov. 1996)

8-222. Sanitation requirements and standards for licensed premises; inspections; placement of signs. (1) Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary condition, the requirements of

which shall be the equivalent of that required for a rating of class "B" or better as established by the Tennessee state department of conservation, division of hotel and restaurant inspections.

(2) The city health officer or any properly authorized person is hereby authorized to enter the premises of a permittee, at all reasonable hours, for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the city.

(3) Any holder of a beer permit shall not advertise beer by signs or displays located on, attached to, or extending over the public sidewalks or public rights of way. (1979 Code, § 2-222)

8-223. Violation of chapter as grounds for suspension or revocation of permit. Each day's violation of each or any provision of this chapter by any permit holder, or each sale made in violation of any provision of this chapter shall constitute a separate misdemeanor for which the permit issued hereunder may be suspended or revoked in addition to any fine imposed under the general penalty clause for this code. (1979 Code, § 2-223)

8-224. Minors prohibited from being on premises. No holder of a permit to sell beer for consumption on the premises shall allow minors to be on the premises at any time, except the same be in the course of his or her employment unless the holder of the permit, within the past thirty (30) days has delivered to the city administrator a certification, with such documentation as the city administrator may require, that demonstrates that the sale of food and beverages excluding beer sales, in the holder's place of business constitutes more than fifty (50%) percent of gross sales. This certification will be reviewed by the city administrator after the third (3rd) month and after the sixth (6th) month from the date of the certification to determine if the permit holder is in compliance with the gross sales provision.

"Gross sales" shall be defined as total sales of prepared food and beverages, excluding beer sales, at the holder's place of business. (1979 Code, § 2-224, as amended by Ord. #2002-1, Jan. 2002)

8-225. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 Fayetteville, 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. (1979 Code, § 2-225)

CHAPTER 3

ALCOHOLIC BEVERAGE PRIVILEGE TAX

SECTION

8-301. Levied on retail sale of alcoholic beverages for consumption on the premises.

8-302. City administrator's responsibility.

8-301. Levied on retail sale of alcoholic beverages for consumption on premises. (1) Pursuant to the authority contained in Tennessee Code Annotated, section 57-4-301, there is hereby levied a privilege tax upon each and every person, firm, and corporation engaging in the business of selling at retail in the City of Fayetteville alcoholic beverages for consumption on the premises where sold. For the exercise of such privilege, the following taxes are levied for the City of Fayetteville general fund purposes to be paid annually:

Private club	\$150
Hotel and motel	500
Convention center	250
Premiere-type tourist resort	750
Restaurant, according to seating capacity, on licensed premises:	
75-125 seats	300
126-175 seats	375
176-225 seats	400
226-275 seats	450
276 seats and over	500

If a restaurant is licensed by the Alcoholic Beverage Commission to sell wine only under T.C.A. § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified above.

Historic performing arts center	150
Urban park center	250
Commercial passenger boat	375
Historic mansion house site	150
Historic interpretive center	150
Community theatre	150
Zoological institution	150
Museum	150
Establishment in a terminal building of a commercial	
air carrier airport	500
Commercial airline travel club	250
Public aquarium	150

(2) Every person, firm, and corporation engaging in the business of selling at retail in the City of Fayetteville alcoholic beverages for consumption on the premises where sold shall, before commencing business, pay the privilege tax to the city and receive a license to be displayed at all times at the business location.

(3) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit or political organization selling alcoholic beverages at retail pursuant to a special occasion license. (as added by Ord. #96-21, § 1, Dec. 1996)

8-302. City administrator's responsibility. It shall be the responsibility of the city administrator to insure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the Alcoholic Beverage Commission under Tennessee Code Annotated, section 57-4-301(c), and distributed to the state and its political subdivisions under Tennessee Code Annotated, section 57-4-306. (as added by Ord. #96-21, § 2, Dec. 1996)