

Local Retail Liquor
Store Privilege License
Application Packet

Applications for a Local Retail Liquor Store Privilege License
must be **received** by March 18, 2019 at 5:00 p.m. EST
Applications received after this date will not be accepted.



CITY OF CLEVELAND, TENNESSEE

APPLICATION TO CITY OF CLEVELAND, TENNESSEE
FOR CERTIFICATE OF COMPLIANCE AND
LOCAL LIQUOR STORE PRIVILEGE LICENSE

Date: _____

\$1,000.00 APPLICATION FEE

This is an Application for a Local Liquor Store Privilege License to sell alcoholic beverages at retail in a liquor store within the City of Cleveland, Tennessee made on behalf of the Applicant who hereby affirms and states as follows:

The Applicant is: _____.

If more than one (1) the Applicants are:

_____.

The Applicant will operate the business as a: _____.
(please indicate whether the Applicant is a sole proprietorship, corporation, limited liability company, general partnership, or limited partnership).

If other than a sole proprietorship, list all owners of this Applicant:

Name	Title	Percentage of Ownership
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

List the name, address, and phone number for the main contact of Applicant to receive communication from the City of Cleveland: _____

_____.

List the street address and current zoning classification of the proposed liquor store within the City of Cleveland for which a local liquor store privilege license is sought: _____

For the proposed liquor store location identified above, please indicate the owner of the real property at this address and provide a general description of the present improvements on the property:

List the name and street address of any other business in which any owner of the Applicant is actively engaged: _____

Trade name of proposed liquor store business: _____

Specify the identity, title, address, and telephone number of the person who is to receive the annual privilege fee notice for the Applicant: _____

If a corporation or limited liability company, state when and where organized and attach a copy of the Charter or Articles of Organization:

State: _____ Date: _____

Control Number: _____

Has any individual having any kind of interest in the Applicant or the proposed liquor store business been convicted of any offense under the laws of the State of Tennessee, any other State, any municipality within the State of Tennessee or any other State, or of the United States prohibiting, or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of any intoxicating or alcoholic beverage, including beer, within ten (10) years preceding the date of this Application

If answering yes, list the name, date, place, offense, and disposition of all such convictions:

Has any individual having any kind of interest in the Applicant or the proposed liquor store business been convicted within the last ten (10) years of any criminal offense under the laws of the State of Tennessee, any other State, or of the United States other than any minor traffic violations?

_____.

If answering yes, list the name, date, place, offense, and disposition of all such convictions:

_____.

State the name of any individual with any interest in the Applicant or the liquor store business who owns, operates, or has any interest, directly or indirectly, in a retail liquor store, wholesale distributor, distillery, or supplier of alcoholic beverages: _____

_____.

State the name and street address of any individual who is related by blood or marriage to any individual with any interest in the Applicant or the liquor store business who owns, operates, or has any interest in, directly or indirectly, in a retail liquor store, wholesale distributor, distillery, or supplier of alcoholic beverages: _____

_____.

State the name and address of any individual other than the individuals shown on this Application who have any kind of interest, financial, stock ownership, loans, gifts, a guaranty securing a loan, or otherwise in the Applicant or liquor store business and describe the interest:

_____.

State the name and address of any individual other than those shown on this Application who share in the profits or losses of the Applicant or the liquor store business and describe the interest:

_____.

State the name of the on-premises manager of the proposed liquor store business, the subject of this Application: _____.

Attach one (1) copy of a detailed site plan for the proposed liquor store business location of Applicant to contain at a minimum a scale plan drawn to a scale of not less than one inch equals twenty feet (1"=20') giving the following information:

- (1) The shape, size and location of the parcel of land upon which the liquor store is to be operated under the license;
- (2) The shape, size, height and location of all existing building(s), if any, on the parcel of land and whether they are to be altered, moved or renovated;
- (3) The shape, size, height and location of the building, whether existing or new construction, which is proposed to be used as a liquor store, and include a drawing which shows the detailed floor plan, the display area, storage area, restrooms and office space;
- (4) The off-street parking space and off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and
- (5) A survey prepared by a registered surveyor which identifies the parcel upon which the liquor store is to be operated, and the location of the building proposed to be a liquor store, and also the distance between the closest church and the closest school to the building proposed to be a liquor store.

Attach one (1) copy of a detailed financial plan for the Applicant that includes projected profit (loss), revenue, and expenditures for a period covering at least five (5) years. The items listed and which should be included are the minimum requirements and additional information that would be helpful in the evaluation process.

Attach one (1) copy of the following items for each individual identified in this Application with an interest in the Applicant or the retail liquor store business:

- Three trade references
- One bank reference
- Current Balance Sheet
- Current Income Statement
- Previous two (2) years' tax returns (personal and business)

Attach a copy of the Lease Agreement, Property Deed, or Option on property which has been obtained related to the location in the City of Cleveland at which the Applicant plans to conduct its business for which a license is applied. Also include a listing of persons having any interest, direct or indirect, in such premises.

Attach proof that the applicant has satisfied the public notice requirements imposed by the Tennessee Alcoholic Beverage Commission on applicants for a retail liquor license.

Applicant or Applicants hereby state that he/they meet all of the requirements for obtaining a State Liquor Retailer's License and a Local Liquor Store Privilege License.

Applicant Name

Street Address

Subscribed and sworn to before me this ____ day of _____, 20____.

My Commission Expires:_____

NOTARY PUBLIC

Applicant Name

Street Address

Subscribed and sworn to before me this ____ day of _____, 20____.

My Commission Expires:_____

NOTARY PUBLIC

Applicant Name

Street Address

Subscribed and sworn to before me this ____ day of _____, 20____.

My Commission Expires:_____

NOTARY PUBLIC



CITY OF CLEVELAND, TENNESSEE

**INDIVIDUAL QUESTIONNAIRE RELATIVE TO
APPLICATION FOR LICENSE TO SELL ALCOHOLIC BEVERAGES
AT A RETAIL LIQUOR STORE IN CLEVELAND, TENNESSEE**

This Questionnaire must be completed and filed by all individuals who have an ownership interest in the Applicant or liquor store business for which an Application for a Local Liquor Store Privilege License has been filed with the City of Cleveland. Each individual with an ownership interest must submit a separate Questionnaire, which is to be attached to the Application for the license.

Date: _____

Name of Applicant for License as listed on Application: _____

Information Relating to Person completing this Questionnaire (“owner”):

Name: _____

Business Phone: _____

Home Phone: _____

Address: _____

1. State the amount of capital you propose to invest in the Applicant: \$ _____

2. What is the source of this capital? (State in detail). _____

3. If savings or personal funds, give the name of the bank where deposited: _____

4. If a loan was made for this investment, state the name of the lender and the amount of the loan: _____

8. Have you been convicted within the last ten (10) years of any violation of any law against possession, sale, manufacture, or transportation of any intoxicating liquor or alcoholic beverage, including beer? _____

If answering yes, furnish complete details of all convictions including date, place, charge, and disposition: _____

9. Have you been convicted within the last ten (10) years of any criminal offense other than minor traffic violations and other than an offense referenced in number 8 above? _____.

If answering yes, furnish complete details of all convictions including date, place, charge, and disposition: _____

10. Are you a citizen of the United States? _____

If naturalized, set forth the date, place, and court: _____

11. Give the names and addresses of five (5) references. At least three (3) references must reside or own a business within the corporate limits of the City of Cleveland.

Name

Street Address

12. Do you hold a public office, whether appointed or elected? _____

13. Are you a public employee, either national, state, county, or city? _____

14. Furnish your full name, including any nickname or any other names by which you are or have been known? _____

15. Age: _____

Place of Birth: _____

Date of Birth: _____

Social Security Number: _____

Driver's License No: _____

Signature of Applicant

Subscribed and sworn to me this _____ day of _____, 20____.

Notary Public

My commission expires: _____

ORDINANCE NO. 2019-08

AN ORDINANCE TO AMEND SECTION 8-313(b)(4) OF THE CLEVELAND MUNICIPAL CODE RELATIVE TO THE DOCUMENTATION REQUIREMENTS FOR APPLICANTS FOR LOCAL LIQUOR STORE PRIVILEGE LICENSES IN THE CITY OF CLEVELAND

WHEREAS, the City Council passed Ordinance number 2018-30 on final reading on January, 14, 2019; and

WHEREAS, the City Council now desires to amend a provision of that Ordinance, specifically Section 8-313(b)(4).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, IN REGULAR SESSION ASSEMBLED:

SECTION 1. Section 8-313(b)(4) of the Cleveland Municipal Code is hereby deleted in its entirety and is hereby amended to read as follows:

(4) A survey shall be prepared by a registered surveyor which identifies the parcel upon which the liquor store is to be operated, and the location of the building proposed to be a liquor store, and also the distance between the closest church and the closest school to the building proposed to be a liquor store.

SECTION 2. This ordinance shall take effect upon passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

/s/Kevin Brooks
Mayor

/s/Shawn McKay
City Clerk

ORDINANCE NO. 2019-07

AN ORDINANCE TO AMEND SECTIONS 8-316 AND 8-318 OF THE CLEVELAND MUNICIPAL CODE RELATIVE TO THE NUMBER OF ALLOWED LOCAL LIQUOR STORE PRIVILEGE LICENSES IN THE CITY OF CLEVELAND

WHEREAS, the City Council passed Ordinance number 2018-30 on final reading on January, 14, 2019; and

WHEREAS, the City Council now desires to amend certain provisions of that Ordinance, specifically the sections which pertain to the number of allowed liquor store privilege licenses in the City of Cleveland.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE, IN REGULAR SESSION ASSEMBLED:

SECTION 1: Section 8-316 of the Cleveland Municipal Code is hereby amended to read as follows:

8-316. Consideration of Applications for Certificate of Compliance. In issuing certificates of compliance to enable the licensing of liquor stores in the City of Cleveland as presently permitted by this chapter, the City Council will consider all applications filed before a closing date to be fixed by City Council and select from such applications the applicants deemed by City Council, in its sole discretion, to have the qualifications required by law and this chapter and the most suitable circumstances for the lawful operation of a liquor store within the City of Cleveland, without regard to the order of time in which the applications are filed. Applications can only be submitted to the City during the time frame the City Council has set for receipt of such applications. Applications and all matters submitted with or as a part of such applications at the time they are submitted are the sole and exclusive property of the City of Cleveland and are considered public records open to public inspection.

SECTION 2: Section 8-318 (a) of the Cleveland Municipal Code is hereby amended to read as follows:

- (a) **Maximum Number of Licenses.** Initially, there shall be no cap on the number of local liquor store privilege licenses issued by the City of Cleveland. However, once the initial round of local liquor store privilege licenses have been issued by the City on April 8, 2019, then no more local liquor store privilege licenses shall be issued, until and unless the number of local liquor store privilege licenses drops below five (5). If the number of licenses drops below five (5), then at that time, the City Council will then accept applications for the issuance of additional liquor store privilege licenses, not to exceed five (5) total licenses.

SECTION 3. This ordinance shall take effect upon passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

/s/Kevin Brooks
Mayor

/s/Shawn McKay
City Clerk

ORDINANCE NO. 2018-30

AN ORDINANCE TO AMEND TITLE 8 OF THE CLEVELAND MUNICIPAL CODE, ENTITLED 'ALCOHOLIC BEVERAGES', BY ADDING A NEW CHAPTER TO BE DESIGNATED CHAPTER 3, ENTITLED 'LIQUOR STORES'.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND TENNESSEE:

SECTION 1: Title 8 of the Cleveland Municipal Code is hereby amended by adding a new Chapter 3 entitled "Liquor Stores"

CHAPTER 3

LIQUOR STORES

SECTION

- 8-301. Definitions.
- 8-302. Selling and Distributing Generally.
- 8-303. Licenses Required for Sale of Alcoholic Beverages at Retail.
- 8-304. Licensee Responsible for Officers and Agents.
- 8-305. Location of Liquor Store.
- 8-306. Requirements for Building Containing Liquor Store.
- 8-307. Restrictions Generally.
- 8-308. Fees.
- 8-309. Records Kept by Licensee.
- 8-310. Inspections Generally.
- 8-311. Enforcement—Violations—Penalties
- 8-312. Certificate of Compliance.
- 8-313. Application for Certificate of Compliance and Local Liquor Store Privilege License
- 8-314. State Required Certificate of Compliance.
- 8-315. Restrictions upon Issuance.
- 8-316. Consideration of Applications for Certificate of Compliance
- 8-317. License from City to Operate Liquor Store.
- 8-318. Restrictions on Local Liquor Store Privilege Licenses.
- 8-319. Qualifications for and Restriction upon Licensees and Employees.
- 8-320. Nature of License; Suspension or revocation.
- 8-321. Effect.

8-301. Definitions. Whenever used in this Chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(a) **Alcoholic Beverage** means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, and wine capable of being consumed by a human being other than medicine or beer where the latter contains an alcohol content of five percent (5%) by weight or less. Alcoholic beverages also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content. Products or beverages, including beer, containing less than one-half percent (½%) alcohol by volume, other than wine as defined in this section, shall not be considered alcoholic beverage and shall not be subject to

regulation or taxation pursuant to this chapter unless specifically provided.

(b) **Applicant** means a person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(c) **Applicant Group** means more than one (1) person joining together to apply for a local liquor store privilege license or certificate of compliance, as the context provides, to operate a single liquor store pursuant to the same application.

(d) **Application** means the form or forms or other information an applicant or applicant group is required to file with the city in order to attempt to obtain a local liquor store privilege license or certificate of compliance, as the context provides.

(e) **Certificate of Compliance** means the certificate required in Tenn. Code Ann. §57-3-208, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(f) **City** means the City of Cleveland, Tennessee.

(g) **Co-licensees** means persons who together hold a single liquor store privilege license for a single liquor store.

(h) **Display area** means only that portion of a liquor store where liquor is actually displayed on racks or shelves or similar locations and which is open to and accessible by the public where the public can select a product for purchase. "Display area" does not include any portion of a building that is not open to the public, nor does it include any portion of a building which may be open to the public, but where liquor is not displayed for retail sale, such as a public restroom. "Display area" also does not include any portion of a building where liquor may be stored but the liquor is not displayed for retail sale to the public, such as a storeroom or office.

(i) **Federal Statutes** means the statutes of the United States now in effect or as they may hereafter be changed or amended.

(j) **Inspection Fee** means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross purchase price of all alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, such inspection fee shall be the same as if the local liquor store privilege license were held by a single licensee.

(k) **License Fee** means the annual fee a licensee is required by this chapter to pay prior to the time of the issuance or renewal of a local liquor store privilege license. In the event of co-licensees holding a local liquor store privilege license for a single liquor store, only one (1) license fee is required.

(l) **Licensee** means the holder or holders of a local liquor store privilege license. In the event of co-licensees, each person who receives a certificate of compliance and liquor store privilege license shall be a licensee subject to rules and regulations herein.

(m) **Liquor Store** means the building or part of a building where a licensee conducts any of the business authorized by the local liquor store privilege license and state liquor license held by such licensee.

(n) **Local Liquor Store Privilege License** means a local liquor store privilege license issued under the provisions of this chapter for the purpose of authorizing the holder or holders thereof to engage in the business of selling alcoholic beverages at retail in the city at a liquor store. Such a local liquor store privilege license will only be granted to a person or persons who has or have a valid state liquor retailer's license. One (1) local liquor store privilege license is necessary for each liquor store to be operated in the city.

(o) **Manufactured building** means a structure or building substantially or wholly made at a manufacturing plant for installation or assembly at a building site, whether referred to as a mobile home, modular home, manufactured home, panelized home, prefab home, factory built home, or otherwise. A **manufactured building** includes any structure transportable in one or more sections built or placed on a permanent chassis designed to be used with or without a permanent foundation.

(p) **Person** means any natural person as well as any corporation, limited liability company, partnership, firm or association or any other legal entity recognized by the laws of the State of Tennessee.

(q) **Retail Sale** and **Sale at Retail** means the sale to a consumer or to any person for any purpose other than for resale.

(r) **State Law, Rules and Regulations** means all applicable laws, rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed or amended including, without limitation, the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(s) **State Liquor Retailer's License** means a license issued by the Alcoholic Beverage Commission of the State of Tennessee pursuant to Tenn. Code Ann. §57-3-201 et seq. permitting its holder to sell alcoholic beverages at retail in Tennessee.

(t) **Wholesaler** means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(u) **Wine** means the product of normal alcoholic fermentation of juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume.

8-302. Selling and Distribution Generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated Title 57 and by the rules and regulations promulgated thereunder and as provided under this Chapter or any other Chapter of Title 8 of the Cleveland Municipal Code.

8-303. Licenses Required For Sale of Alcoholic Beverages at Retail. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store provided that such sales are made in strict compliance with all federal statutes, all state laws, rules and regulations, and all provisions of this chapter and any other applicable chapter and Charter of the City of Cleveland, Tennessee, and provided that such licensee has a valid and duly issued state liquor retailer's license and a valid and duly issued local liquor store privilege license from the city permitting the licensee to sell alcoholic beverages at retail. Transfer of any ownership right or interest in a license is prohibited. Possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited.

8-304. Licensee Responsible For Officers and Agents. Each licensee shall be responsible for all acts of such licensee as well as the acts of a co-licensee, and acts of the licensee's officers, employees, agents and representatives so that any violation of this Chapter or any other Chapter of Title 8 of the Cleveland Municipal Code, or any other Title or Chapter of the Cleveland Municipal Code or Cleveland City Charter, or of any law or regulation of the State of Tennessee or the Federal Government concerning alcoholic beverages by any co-licensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee.

8-305. Location of Liquor Store. 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 Cleveland unless at a location approved by City Council. All such stores shall only be located within the Highway Commercial (CH) zoning district. No store shall be allowed in any Planned Unit Development (PUD). Moreover, in no event shall such store be located within three hundred feet (300 feet) of any building used as a school or church. The minimum distance requirement from a church shall only be applicable provided a church service is held at the church premises at least on one day of each week. The minimum distance requirement from a school shall only relate to any public school operated by the City of Cleveland or Bradley County, Tennessee or a private school provided such school is licensed and accredited by the State of Tennessee to provide and is providing a kindergarten, elementary, or secondary education to students at the premises. The above minimum distance requirement from certain buildings shall be measured in a straight line between the nearest part of the building proposed to sell alcoholic beverages and the nearest part of the building from which there must be a minimum distance. No liquor store shall be located where the operation of a liquor store at the premises contemplated by an application would unreasonably interfere with public health, safety, or morals.

8-306. Requirements for Building Containing Liquor Store. No liquor store shall be located within a manufactured building as defined in this chapter. All liquor stores shall be located within a stand-alone building. All liquor stores shall be located within a newly constructed building or within an existing building to be renovated or refurbished. The plans for any new building or for the renovation or refurbishing of an existing building must be approved by the City of Cleveland Development and Engineering Office and the Cleveland City Council. The front of the building must have a brick, stone or stucco façade. All liquor stores shall have substantial night light surrounding the outside of the premises so that the premises are fully illuminated at night, and all liquor stores shall be equipped with a functioning burglar alarm system on the inside of the premises. The liquor store display area shall be at least two thousand (2,000) square feet. Full, free and unobstructed vision shall be afforded to and from the street, public highway or parking lot to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. No liquor store shall be located except on the ground floor of the building, and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public. All liquor stores shall be subject to applicable zoning, land use, building and safety regulations, as adopted within the Cleveland Municipal Code, unless specifically stated otherwise herein.

8-307. Restrictions Generally.

(a) **Certain devices and non-employee seating forbidden.** No pool tables, televisions for viewing by customers, pinball machines, arcade gaming devices, including video games, jukeboxes or similar devices shall be permitted in any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

(b) **Time and Days of Operation.** No liquor store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock a. m. (8:00 a.m.) and eleven o'clock p. m. (11:00 p.m.) on Monday through Saturday, and between ten o'clock a.m. (10:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Sunday. The store may not be open to the general public except during regular business hours. No liquor store shall be open for business on Thanksgiving Day, Christmas Day or Easter.

(c) **Selling or Furnishing to Person(s) Below the Age of Twenty-one (21) Years, etc.** It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to a person below the age of twenty-one (21) years, to a person visibly intoxicated, or to any person accompanied by a person who is visibly intoxicated. It shall be unlawful for any person under the age of twenty-one (21) years or a person who is visibly intoxicated to enter or remain in a liquor store or to loiter in the immediate vicinity of a liquor store. Employees with appropriate employee permits issued pursuant to state law who are age eighteen (18) years and older are permitted in a liquor store for the purpose of engaging in paid employment only. It shall be unlawful for a person below the age of twenty-one (21) years to misrepresent his or her age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. Any person selling alcoholic beverages within the City shall be required to have produced to the person selling the alcoholic beverages a facially valid Government issued identification showing that the age of the prospective purchaser of the alcoholic beverage is 21 years of age or older. If such identification is not produced by the prospective purchaser, the alcoholic beverage shall not be sold. Such identification shall be required prior to the sale of alcoholic beverages, regardless of the apparent age of the prospective purchaser.

(d) **Consumption on Premises of Liquor Store.** It shall be unlawful for any licensee to sell any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in the immediate vicinity of the liquor store. Any consumption of an alcoholic beverage by any person in the liquor store shall be limited solely to the circumstances permitted and set forth in Tennessee Code Annotated 57-3-404 (h), or the Rules of the Tennessee Alcoholic Beverage Commission and any applicable federal law.

(e) **Advertising.** There shall be no advertising signs of any kind whatsoever outside the building containing a liquor store, either for the liquor store or to advertise any matter pertaining to alcoholic beverages sold at liquor stores except as set forth herein. There may be placed on the front of a liquor store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the liquor store. Such sign shall not exceed fifty (50) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within letters. No reader board or changeable copy signs shall be permitted. One (1) freestanding sign shall be allowed on the premises not to exceed one hundred forty four (144) square feet. No off-premises signs related to a liquor store shall be allowed within the city. No banner or temporary or permanent sign or other material shall be placed on or inside a liquor store so that it obstructs free and clear vision of the interior of the liquor store from outside of the liquor store. In addition, all liquor store signage shall be subject to applicable zoning, building, and safety regulations, as adopted within the Cleveland Municipal Code, unless specifically stated otherwise

herein.

(f) **Off-Premises Business.** All retail sales of alcoholic beverages shall be confined to the premises of the liquor store. No curb service is permitted, nor shall drive-in window service be permitted. This paragraph shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises, nor shall it be construed to prohibit deliveries allowed by state law or by individuals who hold a valid delivery service license issued by the Tennessee Alcoholic Beverage Commission.

8-308. Fees.

(a) **Inspection Fee.** Pursuant to Tennessee Code Annotated Section 57-3-501, there is hereby levied on each licensee an inspection fee of five percent (5%) on the wholesale price of any alcoholic beverages acquired by the licensee from any wholesaler or any other source. In the event of any subsequent amendments of Tennessee Code Annotated Section 57-3-501, the inspection fee shall be the maximum allowed by Section 57-3-501.

(b) **Collection.** Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee from the licensee at the time the sale is made to the licensee, or at the time the retailer makes payment for the delivery of the alcoholic beverages. Licensee shall create and maintain all records specified in the State rules and regulations related to the purchase and sale of alcoholic beverages and preserve these records for a period of at least thirty six (36) months. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

(c) **Reports.** Each wholesaler making sales to licensees located within the City of Cleveland shall furnish the City a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the City, the wholesale price of the alcoholic beverages sold to each licensee, the amount of tax due, and such other information as may be required by the City. The monthly report shall be furnished the City not later than the 20th of the month following which the sales were made. The inspection fees collected by the wholesaler from the licensee shall be paid to the City at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the City shall be entitled to reimbursement for this collection service, 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 City. Failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten percent (10%) of the fee due the City which shall be payable to the City. The City shall have the authority to audit the records of wholesalers reporting to it in order to determine the accuracy of such reports. The City shall have the authority to audit the records of the licensee in order to determine the accuracy of such reports related to the inspection fees. Nothing herein shall relieve the licensee of the obligation of payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee for the licensee's liquor store is made to the City Clerk on or before the 20th day of each calendar month for the preceding month.

(d) **Failure to Pay Fees.** The failure of the wholesaler to pay the inspection fees and to make the required reports accurately and within the time required by this chapter may result in the suspension or revocation of the licensee's liquor store privilege license if it is determined by the City that the conduct of the licensee has resulted in the failure of the wholesaler to pay the inspection fees and to make the required reports.

(e) **Use of Fees.** All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment and compensation of officers, employees, and other representatives of the city in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed. The City Council finds and declares that the amount of these inspection fees is reasonable, and that the funds expected to be derived from these inspection fees will be reasonably required for such purposes.

8-309. Records Kept by Licensee.

(a) **Required Records.** In addition to any records specified in the state rules and regulations, each licensee shall keep on file, at such licensee's liquor store, the following records:

- (1) The original invoices of all alcoholic beverages bought by the licensee;
- (2) The original receipts for any alcoholic beverages returned by such licensee to any wholesaler;
- (3) A current daily record of the gross sales by such licensee with evidence of cash register receipts for each day's sales;
- (4) An accurate record of all alcoholic beverages lost, damaged, or disposed of other than by sale and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverages involved and the name of the person or persons receiving the same.

(b) **Duration.** All such records shall be preserved for a period of at least thirty six (36) months. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

8-310. Inspections Generally. The City Manager, the City Clerk, the Chief of Police or the authorized representatives or agents of any of them are authorized to examine the premises, books, papers and records of any liquor store at any time the liquor store is open for business for the purpose of determining whether the provisions of this chapter are being observed. Refusal to permit such examination shall be a violation of this chapter and shall constitute sufficient reason for revocation of the local liquor store privilege license of the offending licensee or for the refusal to renew the local liquor store privilege license of the offending licensee.

8-311. Enforcement, Violations and Penalties. Any violation of the provisions of this chapter shall be punishable under the City's General Penalty clause and in the discretion of the City Council, by any combination of a fine of up to fifty dollars (\$50.00) per violation, or by temporary suspension or permanent revocation of the local liquor store privilege license where appropriate. Enforcement provisions are also applicable as found under State law. In addition to the above, the City Council may direct that the City Manager notify the Tennessee Alcoholic Beverage Commission of any violation of this chapter, together with a petition that the State liquor license be revoked, pursuant to Tennessee Code Annotated §57-3-101 et seq., and the rules and regulations of said commission.

8-312. Certificate of Compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, City Council may authorize the issuance of certificates of compliance by the city according to the terms contained herein.

8-313. Application for Certificate of Compliance and Local Liquor Store Privilege License.

(a) **Filing and Content.** An applicant or applicant group for a liquor store shall file with the City Clerk a completed written application on a form to be provided by the City Clerk which shall contain all of the following information and whatever additional information the City Council or City Manager may require:

- (1) The name and street address of each person to have an interest, direct or indirect, in the liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information on the application provided by the city;
- (2) The name of the liquor store proposed;
- (3) A statement that the applicant has secured a location for the liquor store business which complies with all of the restrictions and conditions within this chapter and that the liquor store business is not prohibited at this location because of some other City of Cleveland Ordinance or state law. As a part of this statement the applicant shall provide the address of the proposed liquor store and its zoning designation;
- (4) A statement that the persons receiving the requested license to the best of their knowledge if awarded the certificate of compliance could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of a liquor store in the city; and
- (5) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this title with reference to the sale of alcoholic beverages.

(b) **Further Documentation.** The application form shall be accompanied by a copy of each questionnaire form and other material to be filled out by the applicant or each member of the applicant group with the Tennessee Alcoholic Beverage Commission in connection with an Application for a state liquor retailer's license, and with respect to the store location and building thereon shall be accompanied by five (5) copies of a scale plan drawn to a scale of not less than one inch equals twenty feet (1"=20') giving the following information:

- (1) The shape, size and location of the lot upon which the liquor store is to be operated under the license;
- (2) The shape, size, height and location of all buildings whether they are to be erected, altered, moved or existing upon the lot;

- (3) The off-street parking space and off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and
- (4) The identification of every parcel of land within three hundred feet (300') of the lot upon which the liquor store is to be operated indicating the ownership thereof and the location of any structures thereon and the use being made of every such parcel.

(c) **Signature(s).** The application form shall be signed and verified by each person to have any interest in the liquor store either as an owner, partner, LLC member, stockholder or otherwise.

(d) **Misrepresentation, Concealment of Fact and Duty to Amend.** If any applicant, member of an applicant group, or licensee misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group, or licensee shall be deemed to have violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by City Council. Further, no sale, transfer or gift of any interest of any nature, either financial or otherwise, in a liquor store shall be made without first obtaining a replacement license from the city upon the approval of the City Council.

(e) **Fee.** Each application shall be accompanied by a non-refundable one thousand dollar (\$1,000) investigation fee. One (1) application fee per applicant group is sufficient.

8-314. State Required Certificate of Compliance. Pursuant to Tennessee Code Annotated Section 57-3-208, an applicant for a State liquor retailer's license, as a condition precedent to the issuance of such license, shall submit with the application to the State Alcoholic Beverage Commission a Certificate of Compliance containing the information as stated in Tennessee Code Annotated Section 57-3-208. In issuing any Certificate of Compliance, the City Council, the City Manager and City Clerk will follow and comply with the guidelines and requirements as stated in Tennessee Code Annotated Section 57-3-208. The City Council will not consider any application until publication, at applicant's expense, in a newspaper of general circulation in Bradley County, Tennessee, of the notice required by Tenn. Comp. R. & Regs. 0100-03-.09(10)-(11) has occurred.

8-315. Restrictions upon Issuance.

(a) **Certificates of Compliance.** The City Council shall not issue a certificate of compliance unless the applicant has complied with all the requirements of State liquor statutes, the Rules & Regulations of the Alcoholic Beverage Commission, Tenn. Comp. R. & Regs. 0100-03 and this Chapter.

(b) **No Violations of Chapter.** No certificate of compliance shall be issued unless a license issued on the basis thereof can be exercised without violating any provisions of this Chapter.

(c) **Prerequisites of Issuance.** The City Mayor, upon approval of City Council, shall not sign any certificate of compliance for any applicant or applicant group until:

- (1) An application has been filed with the City Clerk which complies with this chapter of the Cleveland Municipal Code and a showing has been made that the applicant has met all the conditions for a certificate of compliance as stated in Tennessee Code Annotated Section 57-3-208;

- (2) The notice required by Tenn. Comp. R. & Regs. 0100-03-.09(10)-(11) has been published and the public hearing noticed therein has been conducted;
- (3) The location stated in the certificate has been approved by the City Council as a suitable location for the operation of a liquor store; and
- (4) The application has been considered at a public meeting of the City Council and approved by a majority vote of the members present and voting.

(d) **Time Periods for Action.** Any applicant or applicant group who has obtained a certificate of compliance as provided herein must open a liquor store in the city within **twelve (12) months** or, unless an extension is granted by City Council, said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the Alcoholic Beverage Commission of the State of Tennessee and the Application for a local liquor store privilege license shall be considered canceled and revoked.

8-316. Consideration of Applications for Certificate of Compliance. In issuing certificates of compliance (which shall total no more than five (5) in the corporate limits) to enable the licensing of liquor stores in the City of Cleveland as presently permitted by this chapter, the City Council will consider all applications filed before a closing date to be fixed by City Council and select from such applications the applicants deemed by City Council, in its sole discretion, to have the qualifications required by law and this chapter and the most suitable circumstances for the lawful operation of a liquor store within the City of Cleveland, without regard to the order of time in which the applications are filed. Applications can only be submitted to the City during the time frame the City Council has set for receipt of such applications. Applications and all matters submitted with or as a part of such applications at the time they are submitted are the sole and exclusive property of the City of Cleveland and are considered public records open to public inspection.

8-317. License from City to Operate Liquor Store. After an applicant or applicant group receives a license from the State of Tennessee Alcoholic Beverage Commission to operate a retail liquor store pursuant to Tennessee Code Annotated Section 57-3-101, *et seq* in the City of Cleveland, Tennessee, the applicant or applicant group shall apply to the City Clerk for a local liquor store privilege license to operate a retail liquor store pursuant to the following terms, conditions, and restrictions.

8-318. Restrictions on Local Liquor Store Privilege Licenses.

(a) **Maximum Number of Licenses.** No more than five (5) local liquor store privilege licenses for the sale of alcoholic beverages at liquor stores shall be issued under this chapter representing no more than five (5) liquor stores and no more than five (5) certificates of compliance in the City.

(b) **Term Renewal.** Each license shall expire on December 31 of each year. A license shall be subject to renewal each year by compliance with all applicable Federal and Tennessee State statutes, rules and regulations and the provisions of this Chapter.

(c) **Display.** A licensee shall display and post and keep displayed and posted licensee's license in a conspicuous place in the licensee's liquor store at all times.

(d) **Transfer.** A licensee or co-licensee shall not sell, assign or transfer his or her license or any ownership interest therein. No license shall be transferred from one location to another location without the express permission of the City Council.

(e) **Fees.** A license fee of one thousand dollars (\$1,000.00) is due at the time of application for a local liquor store privilege license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city clerk before any license shall be issued.

8-319. Qualifications for and Restrictions Upon Licensees and Employees.

(a) **Initial Qualification.** To be eligible to apply for or to receive a local liquor store privilege license, an applicant, or in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements and conditions which must be shown and stated in the application submitted to the City Council to request a certificate of compliance with these requirements and conditions in 8-313 incorporated herein by reference and form a part of the qualifications which must be met by an applicant before receiving a local liquor store privilege license. In addition, before an applicant is eligible to receive a local liquor store privilege license, the applicant, or in the case of an applicant group, each member of the applicant group, must satisfy all of the other requirements of this chapter, the requirements of the Tennessee Alcoholic Beverage Commission, and all applicable Tennessee State statutes, rules and regulations for the holder of a liquor retailer's license.

(b) **Public Officers and Employees.** No license shall be issued to a person who is a holder of a public office either appointed or elected or who is a public employee either national, state, county or city. It shall be unlawful for any such person to have any interest in such liquor store either directly or indirectly, either proprietary or by means of a loan or participation in the profits of any such business. This prohibition shall not apply however to uncompensated, appointed members of boards or commissions who have no duties covering the regulation of alcoholic beverages or beer.

(c) **Felons.** No licensee shall be a person who has been convicted of a felony within ten (10) years prior to the time he or she or the legal entity with which he or she is connected shall receive a license; provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In case of such conviction occurring after a license has been issued and received, the license shall immediately be revoked if such convicted felon is an individual licensee and, if not, the partnership, corporation, limited liability company or association with which he or she is connected shall immediately discharge him or her and he or she shall have no further interest therein or else such license shall be immediately revoked.

(d) **Employee Felons.** No licensee shall employ in the storage, sale, or distribution of alcoholic beverages any person who within ten (10) years prior to the date of his or her employment shall have been convicted of a felony. In the case that an employee is convicted of a felony while he or she is employed by a licensee at a liquor store, he or she shall be immediately discharged after his or her conviction provided that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction.

(e) **Liquor Offenses.** No license shall be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of this state or any state or of the United States regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of alcoholic beverages or beer.

(f) **Disclosure of Interest.** It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application or if the interest is acquired after the issuance of a license unless it be fully disclosed to the City and approved by the City Council.

(g) **Age.** No licensee shall be a person under the age of twenty-one (21) years and it shall be unlawful for any licensee to employ any person under the age of eighteen (18) years for the physical storage, sale or distribution of alcoholic beverages or to permit any such person under such age in his or her place of business to engage in the storage, sale or distribution of alcoholic beverages.

8-320. Nature of License; Suspension or Revocation. The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension. Any license shall be subject to suspension or revocation by City Council for any violation of this Chapter or any Chapter within Title 8 of the Cleveland Municipal Code by the licensee or by any person for whose acts the licensee is responsible. The licensee shall be given reasonable notice and an opportunity to be heard before the City Council suspends or revokes a license for any violation unless provided otherwise specifically herein. If the licensee is convicted of a violation of any Chapter within Title 8 by a final judgment in any court and the operation of the judgment is not suspended by an appeal, upon written notice to the licensee, the City Clerk may immediately suspend the license for a period not to exceed sixty (60) days, and the City Council may revoke or suspend the license on the basis of such conviction thereafter. A license shall be subject to revocation or suspension without a hearing whenever such action is expressly authorized by other provisions of this Chapter stating the effect of specific violations.

8-321. Effect. This ordinance shall take effect upon passage on final reading, the public welfare requiring it.

SECTION 2: Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

APPROVED AS TO FORM:

/s/John F. Kimball
Attorney

/s/Kevin Brooks
Mayor

/s/Shawn McKay
City Clerk

**RULES
OF
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-03
LOCAL OPTION LIQUOR RULES**

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0100-03-.01 ADVERTISING OF DISTILLED SPIRITS IN NEWSPAPERS, MAGAZINES, OR SIMILAR PUBLICATIONS.

- (1) Statements Prohibited in Advertisements of Distilled Spirits in Newspapers, Magazines, or Other Publications.
 - (a) Restrictions. An advertisement shall not contain:
 1. Any statement that is false or misleading in any material particular.
 2. Any statement that is disparaging of a competitor's products.
 3. Any statement, design, device, or representation which is obscene or indecent.
 4. Any statement, design, device, or representation of or relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.
 5. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.
 6. Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.
 - (b) Statements Inconsistent with Labeling. No advertisement shall contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.
 - (c) Curative and Therapeutic Effects. No advertisement shall contain any statement, design, or device representing that the use of distilled spirits has curative or

(Rule 0100-03-.01, continued)

therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

- (d) **Place of Origin.** No advertisement shall represent that the distilled spirits were manufactured in, or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.
 - (e) **Flags, Seals, Coats of Arms, Crests, and Other Insignia.** No advertisement shall contain any statement, design, devices, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.
- (2) **Prior Approval.** Advertisements conforming to the foregoing provisions need not have prior approval of the Commission before publication.
- (3) **Advertising by Licensees.**
- (a) Advertising by a person or other legal entity licensed as a wholesaler or retailer shall be allowed on the Internet, or any other computer-accessed communication; however, such advertisement shall be subject to TABC Rules 0100-03-.01 and 0100-03-.02.
 - (b) Wholesalers and retailers may develop electronic mail or other computer-access communication mailing lists, and may respond by electronic mail or other computerized communication to any party making inquiry by providing information regarding an alcoholic beverage. No retailer shall authorize or send any unsolicited electronic mail to a consumer.
 - (c) Licensees engaged in Internet advertising may not directly or indirectly falsely identify itself in any advertising or in domain addresses. Further, such licensee must submit to the Commission the exact "web site" or domain address it intends to use prior to beginning the advertising.

Authority: T.C.A. §§ 57-818 and 57-1-203. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed October 1, 1998; effective December 15, 1998. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.02 ADVERTISING OF WINE IN NEWSPAPERS, MAGAZINES OR SIMILAR PUBLICATIONS.

- (1) **Prohibited Statements.**
- (a) **Restrictions.** An advertisement shall not contain:
 - 1. Any statement that is false or misleading in any material particular.
 - 2. Any statement that is disparaging of a competitor's products.

(Rule 0100-03-.02, continued)

3. Any statement, design, device, or representation which is obscene or indecent.
 4. Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.
 5. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.
 6. Any statement that the product is produced blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law or regulations of any municipality, county, or State, Federal, or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.
- (b) **Statements Inconsistent with Labeling.** No advertisement shall contain any statement concerning brand or lot of wine that is inconsistent with any statement on the labeling thereof.
- (c) **Curative and Therapeutic Effects.** No advertisement shall contain any statement, design or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.
- (d) **Place or Origin.** No advertisement shall represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin, or was produced or processed by one who was not in fact and actual producer or processor.
- (e) **Flags, Seals, Coats of Arms, Crests, and other Insignia.**-No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device design, or pictorial representation of or concerning any flag, seal, coat of arms, crests, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, code of arms, crest or insignia is associated.
- (2) **Prior Approval.** Advertisements conforming to the foregoing provisions need not have prior approval by the Commission before publication.

Authority: T.C.A. § 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261, effective July 1, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.03 ADVERTISING OF DISTILLED SPIRITS AND WINE BY DIRECT MAIL.

- (1) **Brands Only.** Manufacturers, importers and Tennessee licensed wholesalers of distilled spirits and wines whose brands have been approved for distribution in Tennessee and Tennessee-licensed wholesalers may advertise brands only by direct mail and/or email.

(Rule 0100-03-.03, continued)

- (2) **Restrictions.** Direct mail advertising must conform substantially, where applicable, with the provisions of 0100-03-.01 or 0100-03-.02 and in addition must not contain the name, address or telephone number of any Tennessee-licensed wholesaler or retailer, and this extends to return address on envelope. The prohibition of 0100-03-.07(1) is also applicable.
- (3) **Retailer Advertising.** Subject to the restrictions of subsection (4) of this rule, a retailer licensed under T.C.A. § 57-3-204 may advertise consumer education seminars, distilled spirits, wines and alcoholic beverages by direct mail to consumers in the form of a newsletter, catalogue or similar communications.
- (4) **Restrictions on Direct Mail.**
 - (a) A retailer may mail or email a newsletter, catalogue or similar communication only to a consumer who has requested to receive such communication in writing or via email.
 - (b) The written request or email of a consumer must be maintained in hard copy, scanned, or electronic format by the retailer to whom it is addressed and is valid until such written notification is received by the retailer from the consumer requesting withdrawal of his/her name from the direct mail listing.
 - (c) Each written request by a consumer must state the retailer to whom it is addressed and must include the date upon which it is signed by the consumer.
 - (d) No industry member may subsidize, contribute or otherwise compensate a retailer for such direct mailing advertising.
 - (e) A retailer shall not be deemed to be in violation of this section unless it can be established that a consumer has made at least one requests to be removed from the mailing or e-mail list and such consumer continued to receive mailings or e-mail communications after thirty days following the second such request.

Authority: T.C.A. §§ 57-1-209 and 57-3-104(c)(4). **Administrative History:** Original rule certified June 7, 1974. Amendment filed October 29, 1984; effective November 28, 1984. Amendment filed August 15, 1997; effective December 29, 1997. Amendment filed August 18, 1998; effective December 29, 1998. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.04 ADVERTISING OF DISTILLED SPIRITS AND WINE ON RADIO OR TELEVISION BY MANUFACTURERS, IMPORTERS AND WHOLESALERS.

- (1) **Radio or Television Advertising.** Manufacturers and importers of distilled spirits and wine and Tennessee licensed wholesalers and retailers may advertise via the radio or television.
- (2) **Restrictions.** Such advertisements must comply with the provisions of 0100-03-.01(1) and 0100-03-.02(1).
- (3) **Wine Permitted But Restricted.**
 - (a) Such advertisements must comply with the provisions of 0100-03-.02(1).
 - (b) Such advertisements must not give the name, address or telephone number of a Tennessee licensed wholesaler or retailer.

Authority: T.C.A. §§ 57-1-209, 57-3-104(c)(4) and 57-3-104(c)(9). **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed December 17, 1991; effective January 31, 1992.

(Rule 0100-03-.04, continued)

Amendment filed August 23, 1993; effective December 17, 1993. Amended by Public Chapter 957, Acts of 1994 effective May 10, 1994. (See Attorney General opinion No. 094-080). Amendment filed August 15, 1997; effective December 29, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.05 ADVERTISING DISTILLED SPIRITS AND WINE ON BILLBOARDS AND OUTSIDE SIGNS.

- (1) Limited to Local Option Counties. Alcoholic beverages may be advertised on signs and billboards only in those counties which have legalized the sale of such beverages under the provisions of T.C.A. § 57-3-106.
- (2) Restrictions on Billboard and Outside Sign Advertising.
 - (a) No such sign or billboard shall contain the statements prohibited by 0100-03-.01(1) and 0100-03-02(1).
 - (b) No such sign or billboard which bears a trademark, trade name, trade slogan or a facsimile of a product, container, or display associated with a particular brand shall also bear the name or advertise the establishment or refer to the services of any wholesale or retail licensee of this State.
 - (c) No manufacturer, importer or wholesaler, or representative thereof, may directly or indirectly give, loan or supply any retail licensee a sign of any nature bearing the name of the retail establishment or referring to its services in any manner, nor shall they cause such signs to be painted on exterior walls of the retail premises.
 - (d) Signs advertising brands only painted on the exterior walls of a retail licensee's establishment and paid for directly or indirectly by a manufacturer, importer, wholesaler or representative thereof shall not extend more than 18 inches beyond the body of the sign and no other painting of the exterior shall be furnished the retail licensee.
 - (e) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly (through a sign company or advertising agency) pay, credit or otherwise offer inducement of any nature to a retail licensee for the display of any sign or billboard or for the use of space involved therein, nor shall they reimburse the retailer for any expense incidental thereto. No billboard or other structure for which a retail licensee is paid a rental of offered any inducement may be used as a billboard for advertising alcoholic beverages.
- (3) Local Control. Signs and billboards approved herein are subject to reasonable rules and regulations duly adopted by proper governing bodies in the county and city wherein located.

Authority: T.C.A. §§ 57-111, 57-818, 57-1-209, and 57-3-106. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261: effective July 1, 1983. Amendment filed May 10, 1983: effective August 15, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.06 ADVERTISING MATERIALS WITHIN RETAIL PREMISES.

- (1) Who May Supply and Install. Subject to the provisions of 0100-06-03 of these regulations, manufacturers and importers may give, rent, loan or sell to Tennessee licensed wholesalers, but to no other person, signs, posters, placards, decorations, devices, statuettes or geographic displays-printed, painted or electric-for point-of-sale brand advertising. Wholesalers may give, rent, loan or sell same to Tennessee licensed retailers, but to no other

(Rule 0100-03-.06, continued)

person, and may install or set up such materials in the windows or elsewhere in the interior of a retail establishment. Retailers may not give, rent, loan or sell such material referenced above to a consumer.

(2) Restrictions on Advertising Within a Retail Premises.

- (a) All advertising materials provided under this Rule 0100-03-.06(1) must conform to Rule 0100-03-.01(1) and Rule 0100-03-.02(1), with the only exception being that such material may contain specific prices and statements of pecuniary appeal.
- (b) All such material must have the primary value to the retailer of brand advertising only. Brand advertisements must be an integral and not easily separable part of any material that has a secondary or utility value (such as change mats, calendars, thermometers, ash trays, lamps, bottle racks, etc.).

(3) Prohibitions.

- (a) The practice of painting the interior of retail licensed premises under the guise of advertising is prohibited. Decorating with crepe paper, "Corabuff" matting, or similar material as a background or setting for advertising material only is permitted but such decoration is limited to a 20-square-foot area, per wholesaler.
- (b) Except as permitted by the provisions of 0100-06-.03, no manufacturer, importer, wholesaler or representative thereof, shall give, rent, loan or sell a retail license any fixtures, furnishings or equipment of a permanent nature under the guise of advertising except as permitted by 0100-06-.01, *et seq.*
- (c) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly through an agent pay, credit or otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.
- (d) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly through an agent pay, credit, otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.

Authority: T.C.A. §§ 57-818 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment filed December 1, 1980; effective March 31, 1981. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.07 ADVERTISING NOVELTIES AND SPECIALTIES.

- (1) Off-premise retailers licensed under T.C.A. § 57-3-204 may distribute to consumers only alcoholic beverages and those types of items specifically authorized under chapter 0100-06 of these regulations.

Authority: T.C.A. §§ 57-818, 57-1-201 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.08 ADVERTISING APPROVAL DOES NOT SANCTION ANY VIOLATION, COMMISSION DISCRETION ON ADVERTISING.

- (1) No Advertising Shall Indicate Any Violation Permitted. No advertising permitted herein shall imply sanction in any manner of any violation of the Tennessee Code, rules and regulations of the Commission, or valid ordinance of a duly constituted Authority.
- (2) Commission May Compel Discontinuance. The Commission reserves the right to instruct the discontinuance and withdrawal of any advertisement in any medium whatsoever which in its discretion, is determined to be inconsistent with the public interest.

Authority: T.C.A. §§ 57-818 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.09 LICENSES AND PERMITS.

- (1) Full-time Municipal Law Enforcement Department Required. No retail liquor license shall be granted for a location which is not situated within the jurisdiction of a regular full-time municipal law enforcement department or within a jurisdiction that has contracted with a regular full-time law enforcement department to provide services to the jurisdiction.
- (2) Financial Disclosure.
 - (a) Applicants for retail liquor licenses shall submit, in conjunction with their application, proof of financial responsibility. Specifically required with each application are the following:
 1. Financial statements containing financial information as requested by the Commission;
 2. Loan agreements related to the licensed premises, the retail liquor operation, or any other interests in other liquor-related businesses owned by the applicant;
 3. Gifts related to the licensed premises, the retail liquor operation, or any other interest in other liquor-related businesses owned by the applicant; and
 4. Any other information requested by the Commission.
 - (b) The Commission may refuse to grant a retail liquor license to any applicant who fails to demonstrate, by a preponderance of the evidence, the financial ability and responsibility to reasonably conduct business.
 - (c) Upon renewal of an existing license the applicant for renewal need submit only the financial information as specifically requested by the Commission.
- (3) Limit on Wholesalers' Licenses. No person, partnership, or corporation will be issued a wholesaler's license in more than one municipality in the same county.
- (4) Restriction on License After Revocation.
 - (a) No wholesale or retail license will be issued to the spouse, child or children, son-in-law, daughter-in-law or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was

(Rule 0100-03-.09, continued)

revoked for a period of one (1) year after said revocation. The Commission may, in its discretion, waive this prohibition.

- (b) The Commission may refuse to reissue a license to the same person, firm or corporation whose license has been revoked for one (1) year from the date of said revocation.
- (5) **Must Surrender License If Business Discontinued.** Whenever any licensee discontinues business for any reason, he shall immediately notify the Commission in writing and surrender his license.
- (6) **Time Requirement to Commence Business.** Approval, by the Commission, of the issuance of a new wholesaler's or retailer's license or the transfer of such a license to a different entity, shall automatically expire 90 calendar days after such approval if the new license has not opened for business, unless a written request is received by the Commission for an extension of approval.
- (7) **Licensees Not Required To Have Permits.** Persons whose names are listed on a wholesale or retail license are not required to obtain permits, and no such persons shall hold any permit issued by the Alcoholic Beverage Commission.
- (8) **Retail Licensees Not To Hold Federal Wholesale Stamp.** No licensed retail liquor dealer shall purchase or have issued to him, nor may he possess, any Federal liquor license, stamp or permit without the corresponding State liquor license. Possession by any licensed retail liquor dealer of any such Federal license, stamp or permit without the corresponding State liquor license will be grounds for the revocation of his retail liquor license.
- (9) **Procedure for Off-Premise Retail License Application.** Whenever any person has applied to the Alcoholic Beverage Commission for a license pursuant to T.C.A. § 57-3-204, except for an application for license renewal, the Commission, may at its discretion, conduct a hearing pursuant to the provisions of T.C.A. § 4-5-101 et seq. to determine whether the license shall be issued. The hearing may be held unless the applicant, municipality or civil district wherein the applicant intends to conduct business and the Commission has stipulated in writing that no such hearing is necessary. However, when the municipality or civil district wherein the applicant intends to conduct business fails to grant or deny the certificate required by T.C.A. § 57-3-208 within sixty (60) days of the written application, the certificate is deemed to be granted, and further, the municipality or civil district is deemed to have stipulated that the hearing regarding the issuance of a license is not necessary.
- (10) **Public Notice.** The Commission shall require each applicant for a new retail liquor license, pursuant to Chapter 3 of Title 57 of the Tennessee Code Annotated, to place a notice in a newspaper of general circulation in the area proposed to be served concerning the applicant's intent to seek a license from the Commission. The notice shall contain such information as is prescribed in Section (11) below and shall appear for at least three (3) consecutive issues immediately preceding the date that the applicant applies to the city or county for a certificate of compliance. The application shall be accompanied by a copy of the public notice and the sworn statement of the applicant that the notice was published in.
- (11) **Format of Notice.**
 - (a) Anyone applying for a Tennessee retail liquor license shall place the following notice in a newspaper of general circulation:

RETAIL LIQUOR LICENSE NOTICE

Take notice that _____ has

(Rule 0100-03-.09, continued)

(Name and address of applicant)
 applied to _____ for a certificate of compliance
 (City or County)
 and has or will apply to the Tennessee Alcoholic Beverage Commission at Nashville for a
 retail liquor license for a store to be named _____ and to be located at
 (Name of Store)
 _____ and owned by
 (Address of Store)

(List whether individual, partnership, or corporation. List individual owners except if
 corporation, list officers and manager.)
 All persons wishing to be heard on the certificate of compliance may personally or through
 counsel appear or submit their views in writing at

 (Name of City or Government to issue certificate and address)
 on _____ at _____. The Tennessee Alcoholic Beverage
 (Date) (Time)
 Commission will consider the application at a later date to be set by the Tennessee Alcoholic
 Beverage Commission in Nashville, Tennessee. Interested persons may personally or
 through counsel submit their views in writing by the hearing date to be scheduled by the
 TABC. (Rule 0100-03-.09, continued) Anyone with questions concerning this application or
 the laws relating to it may call or write the Alcoholic Beverage Commission at

 (Address) (Phone)

- (b) The title of the notice shall be all capital letters and at least 10 point size. The text of
 the notice shall be at least eight point size type, and the size of the entire notice shall
 be not less than two columns by two inches of newspaper space. Such newspaper
 notice shall be published prior to the issuance of the Certificate of Compliance.

Authority: T.C.A. §§ 57-1-209, 57-3-104(c)(4) and 57-3-208(e). **Administrative History:** Original rule
 certified June 7, 1974. Amendment filed September 6, 1978; effective October 23, 1978. Amendment filed
 November 21, 1979; effective February 28, 1982. Amendment and new rule filed March 17, 1980;
 effective May 1, 1980. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May
 10, 1983; effective August 15, 1983. Amendment filed April 23, 1984; effective July 14, 1984. Amendment
 filed January 14, 1986; effective April 15, 1986. Amendment filed February 12, 1990; effective May 29,
 1990. Amendment filed October 15, 1991; effective January 29, 1992. Amendment repealing and
 replacing the rule filed March 10, 2010; effective June 8, 2010.

0100-03-.10 TRANSPORTATION AND DELIVERY OF ALCOHOLIC BEVERAGES.

- (1) Requirement For All Transporters. Any person transporting alcoholic beverages within, into,
 through or from the State of Tennessee must comply with the provisions of T.C.A. § 57-3-
 403, Tennessee Code Annotated and shall, when requested by any representative of the
 Commission, or person having police authority, exhibit to such person the required bill of
 lading or other memorandum of shipment covering the cargo of the vehicle.
- (2) Requirements for Tennessee-Licensed Wholesalers.
 - (a) Trucks and other motor vehicles owned or operated by wholesalers, when
 transporting alcoholic beverages, are forbidden to carry any other commodities of any
 nature, except those items specifically authorized by Chapter 0100-06 of these
 Regulations.

(Rule 0100-03-.10, continued)

employee training purposes. No sealed or unsealed containers of alcoholic beverages shall be given, sold or otherwise transferred to persons attending a consumer education seminar, to an on-premises consumption licensee, or to any other person.

3. The wholesaler or retailer shall transport any unopened containers directly back to the licensed retail location within 24 hours of the conclusion of the consumer education seminar if the retailer purchased the alcohol. However, if the wholesaler donated the alcohol, then the wholesaler may, at its option, return such alcohol to its inventory or provide such alcohol to the retailer for use in employee training and not for resale.
4. There shall accompany such alcoholic beverages at all times during transportation by the wholesaler or retailer as authorized herein, a copy of the written notification to the Commission regarding the consumer education seminar and a copy of the invoice. Further, any retailer transporting the alcohol to the approved seminar shall take a reasonably direct route from the location where the alcohol is obtained (either the wholesaler's licensed premises or the retailer's licensed premises) to the address of the consumer education seminar approved by the Commission.

(6) Metric Net Contents.

- (a) Distilled Spirits. The authorized standards of fill for distilled spirits shall be those container sizes authorized by 27 CFR § 5.47a.
- (b) Wine. The authorized standards of fill for wine, as defined in 27 CFR § 24.10, shall be those container sizes authorized by CFR § 4.72.

Authority: T.C.A. §§ 57-132, 57-136, 57-151, 57-818, 57-1-201, 57-1-209, 57-3-104, 57-3-301, 57-3-303, 57-3-307, 57-3-110, 67-101 and 67-1-102. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 29, 1982; effective July 29, 1982. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed September 9, 1983; effective October 11, 1983. Amendment filed April 23, 1984; effective May 23, 1984. Amendment filed September 10, 1985; effective December 14, 1985. Amendment filed July 31, 1987; effective October 28, 1987. Amendment filed August 15, 1997; effective December 29, 1997. Amendment filed August 18, 1998; effective December 29, 1998. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.11 SOLICITATION OF BUSINESS, SERVICES RESTRICTED.

(1) Manufacturers and Importers Limited to Wholesale Solicitation.

- (a) No manufacturer, importer or representative thereof shall solicit orders in any manner for alcoholic beverages from anyone in the State except those holding wholesale licenses.
- (b) No manufacturer, importer or representative thereof shall perform or provide any service whatsoever for a retail on-premise or off-premise licensee or his employee in the State, and no on-premise or off-premise licensee shall accept any service whatsoever, whether on or away from the retail premises—except as specifically authorized under Rule 0100-06-.03. No manufacturer, importer or representative shall enter the premises of any retailer except in the main salesroom of said establishment.

(Rule 0100-03-.11, continued)

- (c) No manufacturer, importer or representative thereof shall give anything of value whatsoever, including but not limited to alcoholic beverages and money, to any Tennessee retail on-premise or off-premise licensee or his employee, and no on-premise or off-premise licensee shall accept whether on or away from the retail premises—except as specifically authorized under Rule 0100-06-.03.
 - (d) Notwithstanding the restrictions contained herein, a manufacturer, importer, or representative thereof may enter the public and non-storage related areas of a retail licensee for the purpose of promoting the products manufactured, imported or represented by manufacturer, importer, or representative, surveying or examining the retail and marketing operations of such retail licensee or examining the advertising displays within the premises of such retail licensee. Such manufacturer, importer, or representative may also provide, orally or in writing, information related to such products to any licensee or employee of such licensee on the retail licensee's premises.
 - (e) Notwithstanding the restrictions contained herein, a manufacturer, importer, or representative thereof may, with the consent the retailer, “face up” or dress a display of those products (and only those products) manufactured, imported or represented by such person which displays are already established at such retail licensee premises and may arrange or rearrange those products manufactured, imported or represented by such person which have been placed on display on the retail premises. While providing such service, such person may not move, disturb, relocate or re-shelve any product other than the products manufactured, imported or represented by such person.
- (2) Wholesale Sales Limited to Retailers.
- (a) No wholesaler, salesman or employee thereof shall solicit orders in any manner for alcoholic beverages from anyone in this State except those holding retail licenses.
 - (b) No wholesaler, salesman or employee thereof shall provide any service whatsoever for a retail licensee or his employee whether within or away from the retail premises with the following exceptions:
 - 1. Delivering alcoholic beverages or any item permitted under Chapter 0100-06 of these regulations to the licensed premises.
 - 2. Arranging stock delivered by his company in retail establishments;
 - 3. Setting up advertising signs or displays as set forth in 0100-03-.05 and 0100-03-.06.
 - 4. Assisting in the conduct of any retailer sponsored consumer education seminar held in accordance with 0100-03-.11(5).
 - (c) No wholesaler, his salesman or employee shall give anything of value whatsoever including, but not limited to, money and alcoholic beverages to any retail licensee or his employee except as otherwise permitted in these rules. No Tennessee retail licensee or his employee shall accept any alcoholic beverages, money, or other things of value except as allowed or provided for by the applicable regulations as set forth at Chapter 0100-06 of these rules.
 - (d) Wholesalers are prohibited from accepting an order for alcoholic beverages from one retailer and delivering and invoicing part of the order to one retailer and the

(Rule 0100-03-.11, continued)

remainder of the order to another licensee. Retailers are prohibited from placing an order for one licensee, and having part of the order delivered to another licensee.

- (e) Notwithstanding the limitations contained herein, a wholesaler, its salesman or its employees may solicit orders from any entity that has submitted to the Commission an application for license under T.C.A. § 57-3-204 or § 57-4-101, but the wholesaler may not deliver any alcoholic beverages until the Commission has approved and issued such license.
- (3) **Retailer Shall Not Solicit at Residence or Place of Business of Consumer.**
- (a) No retail licensee or his employee shall solicit orders for alcoholic beverages by any method directed at the residence or place of business of a consumer any place in this State, other than as permitted by 0100-03-.03 or 0100-03-.04.
 - (b) No retail licensee or his employee shall give any consumer anything of value whatsoever except as provided in 0100-03-.07(2), and then only within the licensed premises or as may be permitted in Rule 0100-03-.11(5). Nothing herein shall prohibit a retail licensee from making withdrawals from inventory for donations to any organization that has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)). Upon request, retailers shall present documentation to the Commission agent or representative of such withdrawals.
- (4) **Tax Laws Unaffected.** No provision of this section is intended to restrict or otherwise affect the deductions available to manufacturers, importers, wholesalers or retailers for purposes of calculating taxes due to the United States.
- (5) **Retailer Sponsored Tastings.** A retailer licensed under T.C.A. § 57-3-204 may conduct consumer educational seminars, which may include providing alcoholic beverages and wine directly to consumers for tasting purposes. A retailer must provide to the Commission written notification on forms prescribed by the Commission if the licensee or its representative or employee is present to discuss the product being sampled, if the licensee is sponsoring or co-sponsoring the event, if the licensee has provided the product to be sampled, and/or if the licensee is soliciting orders at the event.
- (a) No consumer education seminar which includes the consumption of alcoholic beverages or wine by a consumer may occur at a premises licensed by the Tennessee Alcoholic Beverage Commission pursuant to T.C.A. § 57-3-204. (See, T.C.A. § 57-3-406(f)). Further, consumer education seminars must occur within the boundaries of a political subdivision wherein the sale of alcoholic beverages at retail has been approved pursuant to T.C.A. §§ 57-3-106 and 57-4-103.
 - (b) Any retailer desiring to conduct a consumer education seminar which involves the consumption of alcoholic beverages must provide written notification to the Commission disclosing the following information:
 - 1. The date, time, and exact location of the consumer education seminar;
 - 2. The sponsors of such consumer education seminar and any supplier or wholesaler involved, either directly or indirectly, with such consumer education seminar;
 - 3. Whether any fee or cost is assessed to the attendees in order to attend the consumer education seminar, and if so, the amount of such fee; and

(Rule 0100-03-.11, continued)

4. Any other relevant information as may be required by the Commission.
 - (c) Written notifications must be submitted to the Commission not less than four (4) calendar days prior to the date of the consumer education seminar. Proof of such written notification shall be available for inspection at the event. Upon approval, the Commission will issue a letter of permission to the retailer which will be valid for no longer than one 24-hour period, subject to the hours set forth in T.C.A. § 57-4-203(d)(1). Such letter of permission must be available for inspection at the event.
 - (d) Failure to comply with the sub-paragraphs (b) and (c) above may result in a violation of this section.
 - (e) No manufacturer or non-resident seller may directly supply any product to a retailer for use at a consumer education seminar. Nothing herein shall prohibit a wholesaler licensed pursuant to T.C.A. § 57-3-203 from providing product to the retailer for use at a consumer education seminar, nor shall this provision preclude a manufacturer or nonresident seller from providing product to a wholesaler with the intent that such product be used at a consumer education seminar. A wholesaler who provides such product for an event should make a reasonable effort to provide a sufficient quantity or alcohol, but not in excess of the amount needed to conduct the consumer education seminar. Any unopened salable product remaining at the conclusion of the seminar shall be returned to the wholesaler who provided the product if the product was donated for the event, pursuant to T.C.A. § 57-3-403 and Rules 0100-03-.15(1)(a) and 0100-03-.10(6).
 - (f) Any consumer education seminar conducted under this section shall be conducted in accordance with the hour limitations set forth at T.C.A. § 57-4-203(d)(1).
 - (g) A retailer may advertise, in accordance with all other applicable regulations of the Commission, the date, time, location, sponsors, speakers, products to be tasted, food to be served, charge for attendance, and such other information as may be appropriate in inform the consumers of the consumer education seminar.
 - (h) A consumer education seminar conducted under this section may be conducted at any premises licensed pursuant to T.C.A. § 57-4-101. If so, a retailer may impose a reasonable charge for attendance at a consumer education seminar and solicit orders from consumers at the tasting, providing that final sales of wines and alcoholic beverages must be completed within the licensed premises of the retailer.
 - (i) On-premise consumption licensee employees shall not serve, sell, or otherwise dispense any alcoholic beverages not owned outright by such licensee. Any retailer employee and/or representative serving, selling, or otherwise dispensing alcoholic beverages at a consumer education seminar must first obtain a server's permit and such permit must be available for inspection while the consumer education seminar is being conducted. In addition, an individual listed as licensee or manager on the license application or in the records of the Commission may serve or dispense alcoholic beverages at such education seminar.
 - (j) If a consumer education seminar is to be conducted at a premises not licensed pursuant to T.C.A. § 57-4-101, the following additional conditions shall apply:
 1. No food, goods or services may be purchased or sold and no solicitation of orders may occur.
 2. No person may attend such consumer education seminar unless such person has received a written invitation, addressed to the invitee.

(Rule 0100-03-.11, continued)

3. No charge may be imposed upon such invitee for attendance or for any food or product consumed.

(k) The retail licensee shall be responsible for compliance with all statutes, rules, and regulations, including but not limited to the prohibitions of selling to a minor or to an intoxicated individual. Violations of any statutes, rules, or regulations may result in disciplinary action against the appropriate licensee.

Authority: T.C.A. §§ 57-818 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974; Amendment filed August 3, 1979, Disapproved by G.O.C. December 13, 1974. Amendment filed December 4, 1979; Disapproval hearing notice filed March 13, 1980; approved by G.O.C. April 8, 1980. Amendment filed September 9, 1983; effective October 11, 1983. Amendment filed August 18, 1998; effective December 29, 1998. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.12 CONTAINERS AND SIZES.

(1) Original Retail Containers Required.

No licensee shall import into Tennessee or sell in Tennessee any alcoholic beverages, except wine, not in original retail containers.

(2) Wine May Be Imported In Bulk.

Tennessee licensed wineries and wholesalers may import wine in bulk for the purpose of bottling only. When wine is imported hereunder, it shall be stored on the licensed premises only, in containers approved by the Commission which shall have the right in its discretion to seal such containers and require them to be opened only after notice to the Commission and with its consent.

(3) Standards of Fill.

All wine bottled in, sold in and shipped into this state shall be in container specified in the Standards of Fill for wine prescribed by the Department of the Treasury of the United States for wine shipped in interstate commerce; and, said Federal Regulations relating to Standards of Fill for wine are hereby adopted and incorporated by reference herein. See Rule 0100-03-.10(6).

Authority: T.C.A. §§ 57-818, 57-3-104, 57-1-209, 67-1-102, 57-3-303, 57-3-307 and 57-1-201. **Administrative History:** Original rule certified June 7, 1974; Repeal filed March 31, 1982; effective July 1, 1982. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.13 CONDUCT OF BUSINESS - WHOLESALER AND RETAILER.

(1) Retail Licensees to Sell Nothing Except Alcoholic Beverages. No retailer or employee thereof shall store, sell or offer for sale on his licensed premises any article or commodity whatsoever except alcoholic beverages or otherwise provided by statute. However, a wholesaler may store, sell or offer for sale those items specifically authorized under T.C.A. §57-3-404 and Chapter 0100-06 of these regulations, and a retailer may store, display and distribute those items authorized under Chapter 0100-06 of these regulations.

(2) All Licensees Must Keep Records Available Three Years. Each licensee shall keep, for at least three years, all purchase orders, invoices and all other records of all purchases and sales of alcoholic beverages made by such licensee. All such orders, invoices, and all other books and records pertaining to the licensee's operation shall be open for inspection to any

(Rule 0100-03-.13, continued)

authorized representative of the Alcoholic Beverage Commission or Department of Revenue during business hours and failure to make such available shall be deemed cause for revocation of his license.

- (3) **Business Management Restricted.** Every licensed wholesale or retail business shall be managed by the holder of the license, if an individual, or by a partner or corporate officer, in the event that the business is operated by a partnership or corporation. In every case where alcoholic beverages at wholesale or retail are sold by a partnership or corporation, the managing partner or corporation officer in active control and management of the business shall be designated to the Commission.
- (4) **Hours Licensees May Remain Open.** Wholesalers and Retailers may remain open for business between the hours of 8:00 a.m. and 11:00 p.m. by the time zone and system in effect in the city where the store is located.
- (5) **Storage Limited to Ground Floor of Licensed Premises.** No wholesaler or retailer shall store alcoholic beverages at any place other than the ground floor constituting his licensed premises without written permission of the Commission.
- (6) **No Wholesaler May Store for Retailer.** No wholesaler shall store alcoholic beverages for a retail dealer without written approval of the Commission.
- (7) **No Retailer May Store for Another Retailer.** No retailer shall store alcoholic beverages belonging to another retail licensee.
- (8) **"Lugs" Prohibited-Pre-Sacking Restricted.**
 - (a) No bottles of alcoholic beverages shall be removed from the delivery case and wrapped into packages for the purposes of resale commonly known as "lugs" on the premises of a licensed wholesaler or retailer, except a packaged "less than case" order delivered by a wholesaler to a retailer will not be construed as a "lug" if accompanied by an invoice. Retailers shall not sell alcoholic beverages to or pre-package alcoholic beverages for bootleggers.
 - (b) Any such "lug" found on the premises of a retailer or wholesaler shall be prima facie evidence of a violation of this regulation.
 - (c) No licensed retailer shall have on hand, in stock or stored in his possession, any alcoholic beverages that have been pre-sacked prior to the actual receipt by such retailer of a specific order therefore. However, notwithstanding the provisions of this paragraph, nothing shall preclude a retailer from pre-sacking an order for personal consumption after being requested to do so by a consumer.
- (9) **Contests Involving Alcoholic Beverages Prohibited.** No manufacturer, wholesaler, retailer or representative or employee thereof may:
 - (a) Sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums or rewards;
 - (b) Offer as a prize, premium or reward any alcoholic beverages; or
 - (c) Directly or indirectly aid or assist in the promotion of a contest involving alcoholic beverages which is conducted or sponsored by any person not a licensee.

(Rule 0100-03-.13, continued)

- (d) Notwithstanding the foregoing, a manufacturer, wholesaler, or retailer may sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums or rewards for their own employees.
- (10) Gift Certificates. Tennessee licensed retailers may sell gift certificates or gift cards to consumers. However, no gift certificate shall be honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated. If a gift certificate is honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated, then such practice will be deemed to be the equivalent of selling alcohol to a minor or selling alcohol to a person visibly intoxicated.
- (11) Refusal of Cooperation. Any licensee who refuses to open or disclose records to, or furnish information to, or who furnishes false and/or misleading information to an Agent of the Tennessee Alcoholic Beverage Commission upon any matter relating to or arising out of the conduct of the licensed premises shall subject the license to revocation or suspension.
- (12) Open Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all time be accorded agents or representatives of the Tennessee Alcoholic Beverage.
- (13) Licensee Responsible For Law and Order On Licensed Premises. Each licensee shall maintain his establishment in a decent, orderly and respectable manner in full compliance with all laws of Tennessee and ordinances and laws of the municipality and/or county where licensed premises are located at all times.
- (14) Notwithstanding any provisions herein, a retailer may accept a tentative order for alcoholic beverages from consumers by telephone, e-mail, facsimile transmission or other electronic means, provided, however:
 - (a) The retailer maintains a record, written or electronic, of the items tentatively ordered for a period of thirty (30) days following the actual purchase of the items; and
 - (b) The sale and delivery of any such tentative order shall occur on the license premises in a face-to-face purchase.
- (15) Any government-issued document that has expired shall not be deemed to be "valid" for purposes of T.C.A. § 57-3-406(d), and as such, a retailer may not sell alcoholic beverages to a person who has not provided an unexpired government-issued document that meets the requirements of T.C.A. § 57-3-406(d).

Authority: T.C.A. §§ 57-109(g), (1) and (3), 57-818(2), 67-101, 57-132, 57-136, 57-1-201, 57-1-209, 57-3-104(c)(4) and 57-3-406(d). **Administrative History:** Original paragraphs (1) and (3) certified by the Alcoholic Beverage Commission June 7, 1974. Original paragraph (2) certified by the Department of Revenue June 7, 1974. Original paragraph (4) filed October 22, 1975; effective January 14, 1976. Amendment by Public Chapter 261; effective July 1, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010. Amendment filed December 18, 2015; effective March 17, 2016.

0100-03-.14 CONDUCT OF BUSINESS OF WHOLESALERS.

- (1) Wholesaler Accountable for Inventory; Methods of Disposition of Alcoholic Beverage Limited. A wholesaler is strictly accountable for his inventory which he may deplete in the following manner only:
 - (a) Sales to a licensed retailer and to no other person, and each sale and delivery must be covered by an invoice.

(Rule 0100-03-.14, continued)

- (b) Wholesalers may deplete inventories for personal or training use, for purposes of contributing to a charitable organization, for marketing or for use at educational seminars held pursuant to 0100-03-.11 or held for the benefit of retailer customers of the wholesaler. The wholesaler shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purpose of the withdrawal and the employee responsible for such withdrawal. These records shall be retained in accordance with 0100-03-.13(2).
 - (c) Broken and deteriorated merchandise (method of handling set forth in 0100-03-.15(3)).
 - (d) Courtesy sales from one wholesaler to another within the State.
 - (e) Returned merchandise to the manufacturer or importer.
- (2) Consignment and Returns.
- (a) No wholesaler shall sell and no retailer shall accept any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale, except as may be permitted pursuant to Chapter 0100-6
 - (b) Novelty containers, commonly known as Christmas decanters, must be accepted back upon request in exchange for similar quantity of alcoholic beverage of the same brand and proof in conventional containers by the wholesaler from the retailer and by the manufacturer from the wholesaler. Such requests shall not be submitted before January 15 next after the Christmas season for which such decanters were delivered.

(3) Breakage and Deteriorated Merchandise.

The following procedure shall be followed in handling and accounting for broken or deteriorated merchandise:

- (a) Wholesalers shall return broken bottles or deteriorated merchandise from the retailer involved to his warehouse before replacing same with the retailer.
- (b) Replacement shall be listed on the wholesaler's standard invoice and designated whether breakage or deteriorated merchandise.
- (c) The wholesaler shall prepare a standard invoice covering the breakage or deteriorated merchandise within his own stock on the date it is broken or the deteriorated merchandise is removed from his inventory.
- (d) No later than the fifth day of the month each wholesaler shall prepare from invoices of the previous month a complete list of breakage and deteriorated merchandise. The list shall be prepared in triplicate and shall include the invoice number, retail license number (or wholesaler's license number), brand and size.
- (e) An agent of the Tennessee Alcoholic Beverage Commission shall use this list in checking and destroying broken bottles, and checking the deteriorated merchandise which he shall mark as unsalable. The agent will certify all three copies of the list and forward one copy to the Commission. The wholesaler shall mail another copy to the Miscellaneous Tax Division of the Department of Revenue and retain the third as a part of its records.

(Rule 0100-03-.14, continued)

- (f) After checking and marking, the wholesaler may dispose of the deteriorated merchandise without regard to the limitation established in 0100-03-.16(1)(b) provided, however, the wholesaler will incur tax liability at the same time all such unsaleable alcoholic beverages are removed from inventory and not destroyed.
- (4) Wholesaler Assistance at Special Occasion Events. A wholesaler or employee thereof may participate in, assist and serve alcoholic beverages on behalf of a holder of special occasion permit issued pursuant to T.C.A. § 57-4-101(g).

Authority: T.C.A. §§ 57-1-209, 57-3-104(c)(4), 67-1-102, 57-3-303, 57-3-307, and Public Acts of 1974, Chapter 707, § 1. **Administrative History:** Original paragraphs (1) and (3) – (10) certified by the Alcoholic Beverage Commission June 7, 1974. Original paragraph (2) certified by the Department of Revenue June 7, 1974. Amendment filed October 15, 1981; effective January 27, 1982. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed September 9, 1983; effective October 11, 1983. Amendment filed November 7, 1997; effective March 30, 1998. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.15 RESTRICTIONS ON PREMISES, CONDUCT OF BUSINESS OF RETAILERS.

- (1) Retailers Not to Combine. No combination of retailers shall be permitted to purchase merchandise in the name of (1) one retailer and subsequently distribute merchandise which they have purchased in combination with each other to any one of the combination and no retailer shall be permitted to transfer goods from one to another. If any member of the combination is found to have violated this regulation, every member shall likewise be deemed to have violated this regulation, and it shall also be a violation for the wholesale distributor to furnish merchandise to any combination of retail dealers.
- (2) Living Quarters Prohibited. No part of the licensed premises occupied by a liquor store shall be used as living quarters by any person.
- (3) No Commodity Except Alcoholic Beverages May Be Stored. No part of a licensed premises occupied by a liquor store shall be used as a storeroom for any commodity having no relation to the sale of alcoholic beverages.
- (4) Services Restricted. No retailer within or on his licensed premises shall offer by sign or otherwise to perform any service whatsoever for a consumer except the sale of alcoholic beverages.
- (5) Drinking In or On Premises Prohibited. No retail licensee or his employee shall consume alcoholic beverages or permit alcoholic beverages to be consumed within publicly accessible areas of the retail establishment. Employee-only tastings are authorized to be conducted on the retail premises as authorized by T.C.A. § 57-3-404(h). Alcoholic beverages used for employee-only tastings/education must be properly identified as such and proper documentation from the wholesaler must be maintained on the premises. Notwithstanding this provision, all open alcohol being used for employee tastings/education must be removed within seven days of the wholesaler documentation. No licensee or his employee shall engage in the sale of alcoholic beverages on the licensed premises while under the influence of intoxicants or drugs.
- (6) Operation of a Licensee. Every retail licensee shall register and designate on its application one or more persons as managers of the retail operation. All managers of retail licensees shall submit to the Alcoholic Beverage Commission a completed questionnaire within one week of assuming such duties. Such person may be the licensee, if the licensee is an individual. The designated manager or managers of the licensee shall be either the owner or a full time employees of the licensee and shall not be employees of any other licensee nor shall such be a consultant, advisor, or provide any services to any other licensee. Only the

(Rule 0100-03-.15, continued)

licensee, if an individual, or the designated manager or managers may engage in any of the following activities:

- (a) Select, order or price inventory,
- (b) Employ or discharge the employees of the retail establishment,
- (c) Approve advertising, marketing programs of the licensee.

Authority: (1) and (3) - T.C.A. § 57-818; (2) - §§ 67-101, 57-132, 57-136, 57-1-209 and Public Acts of 1974, Chapter 707, § 1. **Administrative History:** Original paragraphs 11) and 13) certified by the Alcoholic Beverage Commission June 7, 1974. Original paragraph (2) certified by the Department of Revenue June 7, 1974. Amendment filed August 3, 1979, Disapproved by G.O.C. December 13, 1979; filed December 4, 1979, Disapproval Hearing Notice filed March 13, 1980; Approved by G.O.C. April 8, 1980. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed August 18, 1998; effective December 29, 1998. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.16 DUAL INTERESTS PROHIBITED.

- (1) Manufacturer and Importer.

No manufacturer or importer, or representative of the same, shall have any kind of interest financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans, guaranteeing payment of any loan, lease of property or participate in the profits, either directly or indirectly, in any wholesaler or any retail on-premise or off-premise liquor establishment in Tennessee.

- (2) Wholesaler or Retailer.

No wholesaler, and no partner, member or person owning stock in a corporation licensed as a wholesaler, and not employee of same, shall have any interest as set forth above in any business licensed as a retailer, and no retailer and no retailer's employee, shall have any such interest in any wholesale establishment.

Authority: T.C.A. §§ 57-818 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment filed February 22, 1980; effective April 6, 1980. Amendment filed December 1, 1980; effective March 31, 1981. Amendment filed April 16, 1981; effective July 29, 1981. Amendment by Public Chapter 261; effective July 1, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.17 RESPONSIBILITY AND PENALTIES FOR VIOLATIONS.

- (1) **Employer Responsible for Employee's Action.** Licensees are at all times responsible for the conduct of their business and are at all time directly responsible for any act or conduct of any employee which is in violation of the laws of Tennessee, the rules and regulations of the Commission, any local ordinance and/or any federal statute or the rules and regulations of the Commission, whether the licensee be present at any such time or not. This section is defined to mean that any unlawful, unauthorized, or prohibited act on the part of an agent or employee shall be construed as the act of the employer, and the employer shall be proceeded against as though he were present and had an active part in such unlawful, unauthorized, or prohibited act, and as if having been at the employer's direction and with his knowledge. Notwithstanding this provision, a licensee may present mitigating factors.
- (2) **In Disciplinary Action.** In disciplinary proceedings, it shall be no defense that an employee or agent of a licensee acted contrary to order, or that a licensee did not personally participate in the violating action or actions – except as permitted under 0100-05-.07.

(Rule 0100-03-.17, continued)

- (3) **Avoidance of Tax Liability.** Any manufacturer, importers, or representative of the same, and any wholesaler or retailer or employee of the same, who shall evade, or render direct or indirect assistance in the evasion of, the payment of the taxes imposed in T.C.A. §§ 57-3-302, 57-3-303, 57-4-301, and 57-6-201, T.C.A., or who shall violate or in any manner aid or abet or participate in any scheme to violate the local option law, or fails or neglects to comply with any regulations here in before set out, shall be deemed to have given cause for suspension or revocation of his license, or permit, or if holding no license or permit, to have given cause for withdrawal or suspension of any privilege granted in Tennessee, as the Commission in its discretion

Authority: T.C.A. §§ 57-818, 57-1-201 and 57-1-209 to implement T.C.A. §§ 57-3-302 and 57-3-303.
Administrative History: Original rule certified June 7, 1974. Repeal filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.18 TRANSFER OF LICENSES.

- (1) The transfer of a retail liquor license from one location to another shall be subject to the following provisions:
- (a) The new location must be within the same city as the original location.
 - (b) The application for transfer must pay or must have paid the full annual license fee for the year in which the transfer is requested.
 - (c) The physical transfer of the store must be completed within ninety (90) days after the transfer is granted. Under exceptional and unusual circumstances, the applicant may request an additional thirty (30) days time. However, the request must be made in writing and must state the reasons for the extension. Such request must be submitted to the Commission prior to the aforementioned ninetieth day.
 - (d) The approval of all applications for the transfer of a retail liquor license shall be within the discretion of the Alcoholic Beverage Commission.
 - (e) Circumstances which may be considered by the Commission include:
 - 1. Physical destruction of the premises not the fault of the licensee.
 - 2. Bona fide termination of the lease, with the remaining term of the lease not to exceed one year from the date the transfer is considered by the Commission.
 - (i) Accompanying each application for transfer shall be a sworn statement by the applicant declaring the reason for the lease termination.
 - (ii) If the applicant for transfer is purchasing the property for the proposed new location, then the appropriate documents shall be submitted with the application evidencing the purchase.
 - (iii) If the applicant for transfer is building a new structure for the proposed new location, the structure's blue prints or other building plans shall be submitted with the application.
 - 3. Eminent domain or condemnation proceeding causing serious disruption of the business.

(Rule 0100-03-.18, continued)

4. Substantial changes in traffic patterns surrounding the existing store.
 5. Situations, which in the discretion of the Commission, are determined to be a material change of circumstances.
- (f) The application for a transfer of a retail liquor license shall follow the procedural requirements prescribed for applications for new licenses contained in regulations 0100-03-.09(9) and 0100-03-.09(10).
- (g) The proposed new location must comply with such statutes, regulations, and ordinances for new licenses as are determined to be applicable and material in the discretion of the Commission.

Authority: T.C.A. §§ 57-818, 57-1-209, 57-3-104(c)(4) and 57-4-201(a)(2). **Administrative History:** Original rule certified June 7, 1974. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.19 REPEALED.

Authority: T.C.A. § 57-818. **Administrative History:** Original rule certified June 7, 1974. Repeal filed March 29, 1982; effective July 1, 1982. Repeal filed March 10, 2010; effective June 8, 2010.

0100-03-.20 REPEALED.

Authority: T.C.A. § 57-818 to implement T.C.A. §§ 57-131, 57-132, 57-701 through 57-707 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Repeal filed March 10, 2010; effective May 8, 2010.

0100-03-.21 REPEALED.

Authority: T.C.A. §§ 57-1-209, 57-3-104(c)(4) and 57-4-201(a)(2). **Administrative History:** Original rule filed January 14, 1978; effective February 13, 1978. Amendment filed October 15, 1991; effective January 29, 1992. Amendment filed December 4, 1996; effective April 30, 1997. Repeal filed March 10, 2010; effective June 8, 2010.