

City of Cleveland

CLEVELAND, TENNESSEE

Cleveland Municipal Building
190 Church Street, N.E.
P.O. Box 1519
Cleveland, TN 37364-1519
Ph. # (423)472-4551
Fax # (423)473-1043

BEER PERMIT APPLICATION PREPARATION FORM

NAME OF APPLICANT: _____

SOCIAL SECURITY NUMBER: _____

CHIEF OF POLICE:

LOCAL REPORTS: _____

THIS OFFICE HAS RESEARCHED THE RECORDS OF THIS INDIVIDUAL AND
PLEDGES THAT ALL OF THE ABOVE LISTED INFORMATION IS TRUE AND AS
COMPLETE AS POSSIBLE.

CHIEF OF POLICE

BUSINESS TAX INSPECTOR:

THIS PERSON HAS OBTAINED THEIR BUSINESS LICENSE AND THUS CAN
OPERATE A BUSINESS WITHIN THE CITY OF CLEVELAND.

BUSINESS TAX INSPECTOR

CLASSIFICATION:

- ____ 1) RESTAURANT
____ 2) BAR
____ 3) CONVENIENCE STORES/PACKAGE SALES
____ 4) GROWLER
____ 5) SPECIAL OCCASION PERMIT
____ 6) CRAFT BEER RESTAURANT
____ 7) NON-CONSUMPTION WHOLESALER PERMIT
____ 8) MOVIE THEATRE

APPLICATION FEE OF \$250.00: PAID _____ UNPAID _____

SURVEY OF PROPERTY: OBTAINED _____ NOT OBTAINED _____

PRORATE AMOUNT: PAID _____ UNPAID _____

NOTES: _____

BEER PERMIT APPLICATION FORM COVER SHEET

NAME OF OWNER: _____

DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER: _____

NAME OF BUSINESS: _____

_____ RESTAURANT; _____ PACKAGE SALES; _____ BAR; _____ GROWLER
_____ SPECIAL OCCASION; _____ CRAFT BEER RESTAURANT;
_____ NON-CONSUMPTION WHOLESALER PERMIT

ADDRESS OF BUSINESS: _____

APPLICATION FEE DUE: \$250.00 – NON REFUNDABLE

PRIVILEGE TAX PRO-RATE: THE AMOUNT THAT WILL BE DUE IS JANUARY \$100.00, FEBRUARY \$91.67, MARCH \$83.34, APRIL \$75.01, MAY \$66.68, JUNE \$58.35, JULY \$50.02, AUGUST \$41.69, SEPTEMBER \$33.36, OCTOBER \$25.03, NOVEMBER \$16.70, AND DECEMBER \$8.37.

A CURRENT STATE CERTIFIED SURVEY WILL NEED TO BE PROVIDED
DETAILING THE DISTANCE FROM THE NEAREST CHURCH AND SCHOOL.

APPLICANT WILL NEED TO APPEAR AT THE BEER BOARD MEETING THAT
IS SCHEDULED THE SECOND TUESDAY OF EACH MONTH, AT 5:45 P.M. AT
THE CITY COUNCIL MEETING ROOM WITHIN THE CITY MUNICIPAL
BUILDING THAT IS LOCATED AT 190 CHURCH STREET.

DECLARATION OF CITIZENSHIP IS REQUIRED BY THE STATE OF
TENNESSEE

**ALL PAPERWORK MUST BE TURNED IN AT LEAST 14
(FOURTEEN) CALENDAR DAYS BEFORE THE NEXT
SCHEDULED BEER BOARD MEETING.**

**BEER PERMIT
APPLICATION FORM
STATE OF TENNESSEE
CITY OF CLEVELAND**

APPLICATION FOR:

_____ ON PREMISES PERMIT WITH AT LEAST 50% FOOD SALES
(RESTAURANT)
_____ ON PREMISES PERMIT WITH LESS THAN 50% FOOD SALES
(BAR)
_____ OFF PREMISES SALE (PACKAGE SALES)
_____ GROWLER SALES
_____ SPECIAL OCCASION PERMIT
_____ CRAFT BEER RESTAURANT
_____ NON-CONSUMPTION WHOLESALE PERMIT
_____ MOVIE THEATRE

I HEREBY MAKE APPLICATION FOR A PERMIT TO SELL, STORE, MANUFACTURE, OR DISTRIBUTE BEER OR OTHER BEVERAGES AUTHORIZES TO BE SOLD, STORED, MANUFACTURED OR DISTRIBUTED UNDER THE PROVISIONS OF TENNESSEE CODE ANNOTATED 57-5-101 ET SEQ. AND BASE MY APPLICATION UPON THE ANSWERS TO FOLLOWING QUESTIONS:

1. FULL NAME OF APPLICANT (OWNER) _____

2. PERSON _____ FIRM _____ CORPORATION _____ JOINT STOCK CO. _____

SYNDICATE _____ ASSOCIATION _____

3. LIST ALL PERSONS, FIRMS, CORPORATIONS, JOINT-STOCK COMPANIES, SYNDICATES, OR ASSOCIATIONS HAVING AT LEAST A 5 PERCENT OWNERSHIP INTEREST IN THE BUSINESS (IF MORE THAN ONE OWNER SEE ATTACHED SHEET): _____

4. LIST ALL OWNER'S PRESENT HOME ADDRESSES: _____

5. LIST ALL PREVIOUS ADDRESS(ES) (WITHIN LAST TEN YEARS): _____

6. DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER: _____

HOME TELEPHONE NUMBER: _____

BUSINESS TELEPHONE NUMBER: _____

7. UNDER WHAT NAME WILL THIS BUSINESS OPERATE? _____

8. GIVE THE BUSINESS ADDRESS: _____

TELEPHONE NUMBER: _____

9. SPECIFY THE IDENTITY AND ADDRESS OF THE PERSON TO RECEIVE THE ANNUAL TAX NOTICES AND ANY OTHER COMMUNICATION: _____

10. GIVE THE ADDRESS OF REAL ESTATE (PROPERTY) OWNER IF OTHER THAN BUSINESS OWNER: _____

11. MANAGER INFORMATION (IF SOMEONE OTHER THAN OWNER):

NAME: _____

ADDRESS: _____

SOCIAL SECURITY NUMBER: _____

DATE OF BIRTH: _____

12. HAS ANY PERSON HAVING AT LEAST A 5% OWNERSHIP INTEREST, ANY MANAGER LISTED IN RESPONSE TO QUESTION 12, OR ANY OTHER EMPLOYEE OF THE BUSINESS BEEN CONVICTED OF ANY VIOLATION OF THE BEER OR ALCOHOLIC BEVERAGE LAWS OR ANY CRIME INVOLVING MORAL TURPITUDE (OTHER THAN MINOR TRAFFIC VIOLATIONS) WITHIN THE LAST TEN (10) YEARS?_____

IF SO, GIVE PARTICULARS OF EACH CHARGE, COURT, AND DATE CONVICTED: _____

13. HAVE YOU OR YOUR ORGANIZATION EVER HAD A BEER PERMIT REVOKED, SUSPENDED, OR DENIED IN THE STATE OF TENNESSEE? _____
IF SO, SPECIFY, WHERE, WHEN, AND WHY. _____

14. GIVE THE NAME, RELATIONSHIP TO APPLICANT (IF APPLICABLE) AND ADDRESS OF THE FORMER BEER PERMITTEE AT THIS LOCATION:

15. WHAT IS THE NAME OF THE CHURCH (OR OTHER PLACE OF WORSHIP) NEAREST TO YOUR BUSINESS? **(A SURVEY, PERFORMED BY A STATE LICENSED SURVEYOR, MUST BE ATTACHED.)** _____

16 WHAT IS THE NAME AND ADDRESS OF THE SCHOOL NEAREST TO YOUR BUSINESS? **(MUST ALSO BE SPECIFIED ON THE SURVEY):** _____

17. WHAT IS THE NAME OF THE OWNER AND ADDRESS OF THE NEAREST DWELLING TO YOUR BUSINESS? _____

I CERTIFY THAT I AM KNOWLEDGEABLE OF THE LAWS PROHIBITING THE SALE OF BEER TO MINORS AND THAT THIS APPLICATION CONTAINS TRUE INFORMATION TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HEREBY CERTIFY THAT NO PERSON HAVING AT LEAST 5% OWNERSHIP, INTEREST, NOR ANY PERSON TO BE EMPLOYED IN THE DISTRIBUTION OR SALE OF BEER IN MY ESTABLISHMENT HAS BEEN COVICTED OF ANY VIOLATIONS OF THE BEER OR ALCOHOL BEVERAGE LAWS OR ANY CRIME INVOLVING MORAL TURPITUDE WITHIN THE PAST TEN YEARS. I AM ALSO AWARE THAT I SHALL NOT BE ISSUED A PERMIT OR MY PERMIT SHALL BE REVOKED IF MY BUSINESS CAUSES TRAFFIC CONGESTION OR INTERFERES WITH SCHOOLS, CHURCHES, OR OTHER PLACES OF PUBLIC GATHERING, OR OTHERWISE INTERFERES WITH PUBLIC HEALTH, SAFETY, OR MORALS. I ALSO UNDERSTAND THAT IF I, MY EMPLOYEES, OR ANYONE ASSOCIATED WITH MY ESTABLISHMENT IS CHARGED WITH BREAKING THE CITY OF CLEVELAND'S BEER ORDINANCES IN WHOLE OR IN PART, I MAY BE CALLED BEFORE THE BEER BOARD CONCERNING SUCH CHARGES.

I HAVE RECEIVED A COPY OF THE CITY CODE AS IT PERTAINS TO BEER SALES.

SIGNATURE OF APPLICANT/OWNER (OR OTHER AUTHORIZED CORPORATE OFFICER.)

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF

_____, _____.

NOTARY PUBLIC

COMMISSION EXPIRES

NOTICE:

- 1. A NON-REFUNDABLE \$250.00 FEE MUST ACCOMPANY THIS APPLICATION. IF THE APPLICATION IS APPROVED YOU ARE REQUIRED TO PROVIDE DOCUMENTATION OF SALES TAX REGISTRATION TO THE CITY WITHIN 10 DAYS OF APPROVAL. ANY APPLICANT MAKING ANY FALSE STATEMENT IN THE APPLICATION SHALL FORFEIT HIS PERMIT AND SHALL NOT BE ELIGIBLE TO RECEIVE ANY PERMIT FOR A PERIOD OF TEN YEARS.**
- 2. A PRIVILEGE TAX OF \$100.00 IS IMPOSED ON THE BUSINESS OF SELLING, DISTRIBUTING, STORING, OR MANUFACTURING BEER IN THIS STATE EFFECTIVE JANUARY 1, 1994 AND EACH SUCCESSIVE JANUARY 1ST. ANY HOLDER OF A BEER PERMIT ISSUED AFTER JANUARY 1, SHALL PAY A PRO RATA PORTION OF THIS ANNUAL TAX WHEN THE PERMIT IS ISSUED. THE AMOUNT THAT WILL BE DUE IS JANUARY \$100.00, FEBRUARY \$91.67, MARCH \$83.34, APRIL \$75.01, MAY \$66.68, JUNE \$58.35, JULY \$50.02, AUGUST \$41.69, SEPTEMBER \$33.36, OCTOBER \$25.03, NOVEMBER \$16.70, AND DECEMBER \$8.37.**
- 3. THE CITY OF CLEVELAND HAS ADOPTED RULES FORBIDDING THE SALE AT WHOLESALE OR RETAIL OR THE STORAGE OF BEER AND LIKE BEVERAGES WITHIN 185 FEET FROM THE FRONT DOOR OF ANY SCHOOL OR CHURCH HOUSE BUILDING.**
- 4. DECLARATION OF CITIZENSHIP IS REQUIRED BY THE STATE OF TENNESSEE.**

LIST OF OWNERS:

NAME OF OWNER: _____

DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER: _____

CURRENT HOME ADDRESS: _____

HOME TELEPHONE NUMBER: _____

BUSINESS TELEPHONE NUMBER: _____

LIST PREVIOUS ADDRESS (ES) FOR THE LAST 10 YEARS: _____

NAME OF OWNER: _____

DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER: _____

CURRENT HOME ADDRESS: _____

HOME TELEPHONE NUMBER: _____

BUSINESS TELEPHONE NUMBER: _____

LIST PREVIOUS ADDRESS (ES) FOR THE LAST 10 YEARS: _____

MAKE COPIES IF MORE SHEETS ARE NEEDED.

DETATCH THE
FOLLOWING
PAGES AND
RETAIN FOR YOUR
RECORDS. THIS
INFORMATION
CONTAINS THE
COPIES OF THE
CITY CODE AS IT
PERTAINS TO
BEER SALES.

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE SALES IN RETAIL FOOD STORES.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Prohibited generally.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city clerk.
- 8-105. Sign restriction.
- 8-106. Responsibilities of licensees.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person or legal entity, regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1981 Code, § 4-1, as amended by Ord. of 12/9/02)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, Title 57, Chapter 4, inclusive, entitled "Consumption of Alcoholic Beverages on Premises," and including any

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 17.

amendments thereto, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Cleveland, Tennessee. It is the intent of the city council that the said Title 57, Chapter 4, inclusive, of the Tennessee Code Annotated and any amendments thereto, shall be effective in Cleveland, Tennessee, the same as if said code sections were adopted herein verbatim. (as added by Ord. of 12/9/02)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, and any amendments thereto, there is hereby levied a privilege tax (in the same amounts as levied by Tennessee Code Annotated, § 57-4-301 for the City of Cleveland General Fund to be paid annually as provided in this chapter) upon any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. engaging in the business of selling at retail in the City of Cleveland alcoholic beverages for consumption on the premises where sold. It is the intent of the city council that the said Tennessee Code Annotated, § 57-4-301, and any amendments thereto, shall be effective in Cleveland, Tennessee, the same as if said Code section was adopted herein verbatim. (as added by Ord. of 12/9/02)

8-104. Annual privilege tax to be paid to the city clerk. Any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Cleveland shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. failing to make payment of the appropriate tax when due shall be subject to any penalty provided by law, including revocation of the privilege of selling alcoholic beverages for consumption on the premises in the City of Cleveland. (as added by Ord. of 12/9/02)

8-105. Sign restriction. Notwithstanding any provision in Tennessee Code Annotated, Title 57, Chapter 4 of the Tennessee Code Annotated, no outdoor sign, advertisement or display that advertises alcoholic beverages may be erected or maintained on or about the property from which alcoholic beverages for consumption on the premises is made other than one sign, advertisement or display which makes reference to the fact that the

establishment sells alcoholic beverages for consumption on the premises but does not use brand names, pictures, numbers, prices or diagrams relating to any particular type or brand of alcoholic beverage. (as added by Ord. of 12/9/02)

8-106. Responsibilities of licensees. Licensees who obtain a state-issued "liquor by the drink" permit shall be deemed responsible for the actions of all employees or agents and insuring their compliance with all state and local legislation or regulation related to alcoholic beverages. A violation by an employee or agent of any state or local legislation or regulation related to alcoholic beverages shall subject the licensee to the appropriate sanction, including revocation or suspension of any license or state-issued "liquor by the drink" permit. (as added by Ord. of 12/9/02)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. Definitions.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Classes of consumption permits.
- 8-211. Transfer of permits.
- 8-212. Proximity to schools, churches restricted.
- 8-213. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-214. Prohibited conduct or activities by beer permit holders.
- 8-215. Revocation and suspension of beer permits, investigation of permit holders charged with violations; beer board action; loss of clerk's certification for sale to minor.
- 8-216. Civil penalty in lieu of revocation or suspension; civil penalty for responsible vendors.
- 8-217. Outdoor advertisement at retail beer establishments.
- 8-218. Oath of office.
- 8-219. Consumer identification requirements; required signs.
- 8-220. Violations.

8-201. Beer board. (1) The city council shall appoint a five (5) member beer board.

(2) They shall serve two (2) year staggered terms with two (2) members terms beginning on July 1, of odd numbered years and the terms of the other three (3) members beginning on July 1, of even numbered years. Thereafter the members will be appointed for a two-year term.

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

(3) Two alternate members shall be appointed to the beer board. The term of the first alternate will expire on July 1, 1996, and the term of the second alternate will expire on July 1, 1997. Thereafter the alternate members shall be appointed for a two-year period.

(4) The city council shall decide when any alternate member is appointed or reappointed which alternate shall be the first and which shall be the second. In any meeting where both are present, but only one is necessary to constitute a five member board, the alternate designated as the first alternate shall exercise a vote, while the second alternate will not. (1981 Code, § 4-27, as amended by Ord. of March 1995, modified)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in such places and at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives at least a twelve (12) hour written notice thereof to each member and the press. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. The city clerk shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. Definitions. (1) "Beer." The term "beer" as used in this chapter shall mean beer, ale, or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3101(20); provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such

beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.

(2) "Certified clerk" means a clerk who has successfully satisfied the training requirements contained within the Tennessee Responsible Vendor Act of 2006 (Tennessee Code Annotated, § 57-5-601, et seq.) and who has received certification from a responsible vendor training program that meets all of the statutory and regulatory requirements set forth in Tennessee Responsible Vendor Act of 2006 (Tennessee Code Annotated, § 57-5-601, et seq.) and the rules and regulations of the Tennessee Alcoholic Beverage Commission.

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

(4) "Responsible vendor." The term "responsible vendor" as used in this chapter shall mean a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006" codified at Tennessee Code Annotated, § 57-5-601, et seq.

(5) "Vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption. (1981 Code, § 4-26, as replaced by Ord. #2006-10, April 2006, and Ord. #2007-19, July 2007)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), the application shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). Each application for a beer permit must be received by the business tax inspector not later than fourteen (14) calendar days prior to the scheduled meeting of the beer board. Each applicant must be a person of good moral character and the applicant must certify that the applicant has read and is familiar with the provisions of this chapter. No permit shall be issued until such time as the permit applicant shall personally appear before the beer board to obtain their initial permit. This section requires the owner (in the case of a sole proprietorship) or a managing agent (in the case of a partnership, corporation or limited liability company) to personally appear before the beer board before a beer permit may be issued. (1981 Code, §§ 4-50, 4-51, and 4-52, as replaced by Ord. of 2/14/2000, Ord. #2004-40, Nov. 2004, and Ord. #2007-19, July 2007, and amended by Ord. #2015-22, Sept. 2015)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer

shall remit the tax each successive January 1 to the City of Cleveland, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (as replaced by Ord. #2007-19, July 2007)

8-209. Beer permits shall be restrictive. (1) All beer permits shall be restrictive as the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. Beer permits for Class 2 on-premises consumption shall be limited to fourteen (14) permits. As Class 2 permits are revoked or expire, the limit on the number of Class 2 permits may fall below fourteen (14). If the number of Class 2 permits falls below fourteen (14), applications shall then be accepted for new Class 2 permits. Any new applications for Class 2 permits shall be processed in the order by which the permit applications are received by the City of Cleveland. Unless a new Class 2 permit is issued to a purchaser of a business holding an existing Class 2 beer permit under the provisions of § 8-209(2), a new Class 2 permit may not be issued by the City of Cleveland so long as the total number of Class 2 permits is fourteen (14). It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by their permit. It shall likewise be unlawful for a beer permit holder to fail to comply with any and all express restrictions or conditions which may be written into a permit by the beer board.

(2) Sale of existing Class 2 establishments. Notwithstanding the provisions of § 8-209(1) and the specific limitation on the number of Class 2 permits, a purchaser of an existing business holding an active Class 2 beer permit may be issued a Class 2 permit if the purchaser acquires a business with an existing Class 2 establishment, provided that the purchaser can satisfy the following requirements:

(a) The Class 2 permit of the seller must still be active and not have not been revoked or suspended at the time the purchaser acquires the business.

(b) The new owner otherwise qualifies for a Class 2 beer permit under 8-201 through 8-217 and complies with all of the terms and conditions of §§ 8-201 through 8-217.

(c) The purchaser must apply for a new Class 2 permit within 30 days of the date of the purchase of the business holding an existing Class 2 beer permit.

In the event a purchaser buys an existing Class 2 establishment and is granted a Class 2 beer permit pursuant to the provisions of this section, the permit of the previous holder shall be canceled at the same time the purchaser receives the new Class 2 permit. (as amended by Ord.

of 11/11/96, and Ord. of 6/9/03, and replaced by Ord. #2004-45, Jan. 2005, and amended by Ord. #2007-19, July 2007, Ord. #2016-22, July 2016, and Ord. #2018-02, Feb. 2018)

8-210. Classes of consumption permits. Permits issued by the beer board shall consist of four (4) classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place; and
- (b) Be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) All seating must be part of the premises. In case of any outdoor seating, the outdoor seating area must be accessible from the inside of the restaurant or eating place and the outdoor seating area must have some type of enclosure around it, such as a wall or fencing; and
- (d) In addition to the requirements of subsections 8-210(1)(a) through (c), the monthly beer sales of any establishment which holds a Class 1 On Premises Permit shall not exceed fifty percent (50%) of the monthly gross sales of the establishment. As used herein, the term "gross sales" means all retail sales of the permit holder plus any applicable taxes. As used herein, the term "beer sales" includes all retail beer sales plus any taxes applicable to beer sales.

All Class 1 beer permit holders shall submit quarterly sales reports to the City of Cleveland on forms provided by the city to assure that the Class 1 permit holder is in compliance with the provisions of this section. The city will keep these forms in the permit holder's individual business tax file so that the confidentiality required by Tennessee Code Annotated, § 67-4-722 may be maintained. The reports shall comply with the following schedule:

PERIOD	REPORT DUE DATE
January-March	April 20
April-June	July 20
July-September	October 20
October-December	January 20

If the monthly beer sales for any Class 1 beer permit holder exceed 50% of the monthly gross sales of the permit holder for either three consecutive months

during one calendar year or for any four months in any one calendar year, the Class 1 permit of such permit holder may be suspended or revoked by the beer board. In the alternative, and in lieu of suspension or revocation of the permit, the beer board has the discretion to impose a civil penalty in lieu of suspension in accordance with the terms of Cleveland Municipal Code § 8-216.

(2) Class 2 On Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On Premises Permit.

(3) Class 3 Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

- (a) be a grocery store or a convenience type market; and
- (b) in either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline.

(4) Class 4 Growler Permit. A Class 4 Growler permit is a beer permit issued for the retail sale of beer contained in "Growlers." To qualify for a Growler permit, an establishment must meet all of the other applicable regulations contained in this chapter, including, but not limited to, distance requirements, and must comply with the additional requirements contained in this subsection.

The term "Growler" means a glass bottle not to exceed sixty-four ounces (64 oz.) that is filled by a licensee or employee of the licensed establishment with beer from a keg. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Only professionally sanitized and sealed Growlers may be filled and made available for retail sale. Each Growler must be securely sealed and removed from the premises in its original sealed condition. Consumption of beer on the premises of any Class 4 permit is strictly prohibited, except samples of tap beers offered for sale may be made available, but individual samples shall not exceed one ounce (1 oz.) per sample, nor shall any one (1) individual be offered or consume more than five (5) one ounce samples (5 oz.) per business day.

(5) Special occasion beer permits. In addition to the other types of beer permits provided for in this chapter, the beer board shall have the authority to issue a special occasion beer permit to a bona fide charitable, nonprofit or political organization for the sale, storage, dispensing, serving, distribution or manufacture of beer in the City of Cleveland for a temporary period of time.

Such special occasion beer permit shall be issued for no longer than one (1) forty-eight (48) hour period, and each permit shall be subject to the hours of sale which may otherwise be imposed by law or regulation, and each such

permit must be issued in advance of its effective date. A special occasion beer permit shall only be valid for one (1) specific location.

No such charitable, nonprofit or political organization shall be eligible to receive more than three (3) special occasion beer permits in any one (1) calendar year, measured from January 1 to December 31.

For the purposes of this section "bona fide charitable or nonprofit organization" means any corporation which has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code, or any organization having been in existence for at least three (3) consecutive years which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational or charitable purposes.

For purposes of this section "bona fide political organization" means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-102, or any political party as defined in Tennessee Code Annotated, § 2-13-101.

A special occasion beer permit shall not be issued unless and until the applicant has submitted an application to the beer board for a special occasion beer permit. A special occasion beer permit holder shall not be subject to the annual privilege tax or application fee set forth in title 8 of the Cleveland Municipal Code, but there is hereby imposed an application fee of fifty dollars (\$50.00) for applying for a special occasion beer permit, and all of the other provisions of this chapter governing the issuance of a beer permit shall apply.

The application for a special occasion beer permit shall set forth the following information:

- (a) The name of the organization seeking a special occasion beer permit;
- (b) The name, address, and telephone number, including cell number, of the chairperson of the organization seeking a special occasion beer permit;
- (c) The name, address, cell number and e-mail address of any person who will be selling beer on behalf of the organization seeking the permit.
- (d) The date(s) and time(s) when the special event or occasion will be held;
- (e) The hours which beer sales will be conducted during the event;
- (f) The specific location where the special occasion or event will be held, along with the survey required by § 8-212 of the Cleveland Municipal Code;
- (g) A statement that the applicant is a charitable, nonprofit or political organization, including documentation showing evidence of the type of organization; and
- (h) If the special event or occasion covered by a special occasion beer permit will be held on land not owned by the applicant, a written

statement of approval from the landowner must also accompany the application.

A special occasion beer permit shall not be issued to allow the sale, storage, dispensing, serving, distribution or manufacture of beer on publicly owned property, except that the beer board may issue a special occasion beer permit to a bona fide charitable or nonprofit organization authorizing the sale of beer on public property after the city council approves of the request and the applicant has applied for and received all other permits which may be necessary or required under the Cleveland Municipal Code, including by way of example, but not limited to, a street closure permit, an event permit, or a tent permit.

Failure of the special occasion beer permit holder to abide by all of the conditions of the permit, and all of the laws of the State of Tennessee and ordinances of the City of Cleveland, shall preclude the permit holder from obtaining another special occasion beer permit for a period of one (1) year, in addition to any other penalties that may be otherwise provided for by law.

(6) Craft beer restaurant permit. (a) Definitions. As used in this subsection, the following definitions shall apply:

(i) "Craft beer restaurant" shall mean a restaurant whose business includes the retail sale of craft beer manufactured on the premises.

(ii) "Craft beer" shall mean beer manufactured by on the premises by a craft beer restaurant permit holder for consumption on the premises of the craft beer restaurant.

(b) Class 6 craft beer restaurant permit. A Class 6 craft beer restaurant permit shall be issued for the manufacture of craft beer on the premises. A Class 6 craft beer restaurant permit allows consumption of beer only on the premises.

(c) Requirements. To qualify for a Class 6 craft beer restaurant permit, a craft beer restaurant must, in addition to meeting the other regulations and restrictions of title 8, Chapter 2 of the Cleveland Municipal Code:

(i) Be primarily a restaurant or an eating place; and

(ii) Be able to seat a minimum of thirty (30) people, in booths and at tables, in addition to any other seating it may have; and

(iii) All seating must be part of the premises. In case of any outdoor seating, the outdoor seating area must be accessible from the inside of the restaurant or eating place and the outdoor seating area must have some type of enclosure around it, such as a wall or fencing. Seats in an open air or patio area shall not count toward meeting the requirement of thirty (30) interior seats required for this category of permit; and

(iv) In addition to the requirements of §§ 8-210(6)(c)(1) through (6)(c)(3), the monthly beer sales of any establishment which holds a Class 6 craft beer restaurant permit shall not exceed fifty percent (50%) of the monthly gross sales of the establishment. As used herein, the term "gross sales" means all retail sales of the permit holder plus any applicable taxes. As used herein, the term "beer sales" includes all retail beer sales plus any taxes applicable to beer sales.

All Class 6 craft beer restaurant permit holders shall submit quarterly sales reports to the City of Cleveland on forms provided by the city to assure that the Class 6 permit holder is in compliance with the provisions of this section. The city will keep these forms in the permit holder's individual business tax file so that the confidentiality required by Tennessee Code Annotated, § 67-4-722 may be maintained. The reports shall comply with the following schedule:

<u>PERIOD</u>	<u>REPORT DUE DATE</u>
January-March	April 20
April-June	July 20
July-September	October 20
October-December	January 20

If the monthly beer sales for any Class 6 beer permit holder exceed fifty percent (50%) of the monthly gross sales of the permit holder for either three consecutive months during one (1) calendar year or for any four months in any one (1) calendar year, the Class 6 permit of such permit holder may be suspended or revoked by the beer board. In the alternative, and in lieu of suspension or revocation of the permit, the beer board has the discretion to impose a civil penalty in lieu of suspension in accordance with the terms of Cleveland Municipal Code § 8-216.

(7) Non-consumption wholesaler permit. A Class 7 permit is a beer permit issued for the non-consumption, wholesale and distribution of beer. A non-consumption wholesaler permit ("wholesaler permit") shall be issued to each distributor, manufacturer, brewer or brewery or manufacturer's branch authorizing it to sell beer directly to retailers. To qualify for a non-consumption wholesaler permit, an establishment must meet the distance requirements contained in this chapter, as well as the other general requirements imposed in this chapter, with the exception of those requirements explicitly imposed upon another particular class of permit only. No wholesaler or distributor shall maintain more than one (1) place of business unless such wholesaler or distributor has received a separate permit from the beer permit board for each place of business. If a wholesaler or distributor maintains a place of business

that is contiguous to another permitted location, the requirement in the preceding sentence for separate permits from the beer permit board for each location shall not apply.

A Class 7 permit is limited strictly to warehouse wholesale and distribution, and does not allow or permit consumption of beer on the premises of the wholesaler. The products must come in to the warehouse already packaged and sealed, and the products must leave packaged and sealed without ever being opened or otherwise consumed. (as amended by Ord. of 6/9/03, Ord. #2005-36, Sept. 2005, Ord. #2013-49, Nov. 2013, Ord. #2016-06, Feb. 2016, Ord. #2016-27, Aug. 2016, and Ord. #2016-31, Aug. 2016)

8-211. Transfer of permits. There shall be no transfer of a beer permit from one licensee to another.

8-212. Proximity to schools, churches restricted. (1) It shall be unlawful to store or sell at wholesale or retail, beer in the corporate limits of the city, within one hundred eighty-five (185) feet from the front door of any school or churchhouse building.

(2) This section shall not apply to locations holding a valid license from the city on August 1, 1995, nor to any annual renewal of any such license or licenses.

(3) No official of the city or board appointed by the city council shall issue a permit or license for such storage or sale of beer except as provided herein.

(4) The distances provided for herein shall be measured in a straight line by beginning at the front door of the business location and going from that point to the front door of any churchhouse or school building.

(5) The measurements herein provided for shall be made by an engineer or registered surveyor at the expense of the applicant. A drawing prepared by the engineer or registered surveyor shall be furnished the beer board prior to the consideration of the application for a license by the beer board. (1981 Code, § 4-58, modified, and amended by Ord. #2005-36, Sept. 2005)

8-213. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime

involving illegal drug sales, drug manufacture, drug possession, drug transportation or moral turpitude within the past ten (10) years. (1981 Code, § 4-54, modified, as amended by Ord. of 5/14/2001)

8-214. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving illegal drug sales, drug manufacture, drug possession, drug transportation or moral turpitude within the past ten (10) years.

(2) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 3:00 A.M. and 5:30 A.M. Monday through Saturday and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. No beer shall be consumed, or opened for consumption, on or about any premises licensed pursuant to these ordinances in either bottle, glass, or other container, between 3:00 A.M. and 5:30 A.M. Monday through Saturday, and between 3:00 A.M. and 10:00 A.M. on Sunday.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

(6) Make or allow any sale of beer to any intoxicated person.

(7) Allow drunk persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than 5% by weight, unless a permit holder also has a state-issued "liquor by the drink" license or permit.

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(10) Sale of beer at places where dancing allowed.

(a) No beer shall be sold on premises upon any part of which dancing is allowed, unless the cleared area provided for dancing shall contain at least one hundred forty-four (144) square feet of floor space. In computing the cleared area of floor space, only the compact floor area used primarily for dancing shall be counted. No area upon which counters, tables, chairs or obstructions are located, and no aisles used primarily for providing access to tables, shall be included for computing such cleared floor space.

(b) No beer shall be sold or consumed on premises upon any part of which dancing is allowed unless the part of such premises where such beverage is sold and consumed is separated from the other part of

the building or premises where dancing is allowed by a partition or wall, railing, rope or other definite means of separation approved by the beer board, and such beverage shall not be sold or consumed upon the space set apart for dancing.

(11) Not operate beer sales for ninety (90) consecutive days.

(12) Fail to commence beer sales within one year from the date a beer permit is issued. If a permit holder fails to commence beer sales within one year from the date a permit is issued, the beer permit shall be revoked.

(13) Serve, sell, or allow the consumption on his premises of any alcoholic beverage of any kind, whether designated as beer, liquor, wine, or otherwise, to or by any person under the age of twenty-one (21).

(14) In the case of a Class 1 on-premises permit holder, it is a violation of this section for a permit holder to fail to provide complete and accurate quarterly reports to the City of Cleveland in accordance with and by the due date(s) shown in § 8-210.

(15) In the case of a Class 4 Growler permit, it is a violation of this section to allow consumption of beer on the premises of a Class 4 permit holder in excess of the sample amounts that are allowed under § 8-210(4). (1981 Code, §§ 4-28, 4-31, 4-32, 4-38, and 4-39, modified, as amended by Ord. of March 1999, Ord. of 5/14/2001, Ord. of 5/13/02, Ord. of 12/9/02, Ord. of 6/9/03, Ord. #2004-47, Jan. 2005, Ord. #2005-36, Sept. 2005, and Ord. #2013-49, Nov. 2013)

8-215. Revocation and suspension of beer permits, investigation of permit holders charged with violations; beer board action; loss of clerk's certification for sale to minor.

(1) (a) In general. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of title 8, chapter 2, when the holder of the permit is guilty of making a false statement or misrepresentation in the permit application or if the permit holder violates any provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to the permit holder. Revocation proceedings may be initiated, in writing, by the police chief or by the chairperson of the beer board or his or her designee.

(b) Responsible vendors. Pursuant to Tennessee Code Annotated, § 57-5-608(a), the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, or is within sixty-one (61) days of the date of hire at the time of the violation.

Notwithstanding the foregoing paragraph, the Alcoholic Beverage Commission shall revoke the certification of a vendor certified as a responsible vendor, if the vendor had actual knowledge of the violation or should have known about the violation, or participated in or committed the violation. If the Alcoholic Beverage Commission revokes a vendor's certification under these circumstances, then the vendor shall be penalized for the violation by the beer board as if the vendor were not certified as a responsible vendor.

If, at the time of the violation, the vendor's status as a certified responsible vendor has been revoked by the Alcoholic Beverage Commission, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor.

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

(2) Investigation, subpoenas, oaths. When any beer permit holder is charged with a violation of any state law, the Cleveland Municipal Code, any ordinance of the city, or if a beer permit holder is alleged to have violated § 8-214 of this chapter, it shall be the duty of the beer board to make an investigation. In order that the beer board may make the necessary investigation, the beer board is hereby given authority to issue subpoenas for witnesses to appear before it for the purpose of giving testimony. The chairman of the beer board is authorized to administer an oath to witnesses. The beer board, after its investigation, due notice and a public hearing, may either revoke or suspend the beer permit of any beer permit holder.

(3) Proposed revocation or suspension of beer permit holders who also hold a license to sell alcoholic beverages. (a) If the beer board determines that a beer permit holder who also holds a license for the sale of alcoholic beverages under the provisions of Tennessee Code Annotated, section 57, chapter 4, part 2, has violated any provision contained in Tennessee Code Annotated, section 57, chapter 4, then the beer board may, in its discretion, suspend not only the holder's beer permit for a specified period of time, but the beer board may also include a proposed suspension of the permit holder's authority to sell alcoholic beverages for the same period of time, provided that the Alcoholic Beverage Commission shall review the beer board's action with regard to the proposed suspension or revocation relating to the sale of alcoholic beverages other than beer and approve such suspension.

(b) Pursuant to Tennessee Code Annotated, § 57-4-202(b), the beer board shall direct the city clerk to serve written notice upon the Alcoholic Beverage Commission of its proposed action and provide the Alcoholic Beverage Commission with a tape recording and/or a transcript of the beer board's proceedings. A copy of this notice shall also be sent to the beer permit holder.

(c) Pursuant to Tennessee Code Annotated, § 57-4-202(b), the proposed action by the beer board shall become final upon a review and affirmance of that decision by Alcoholic Beverage Commission. If the Alcoholic Beverage Commission shall fail to act within thirty (30) days after receiving the written notice from the beer board, the failure to act shall be construed as an affirmation of the proposed action.

(d) The suspension or revocation of the beer permit shall be effective at the same time as the receipt of the notice of the affirmation of the suspension from the Alcoholic Beverage Commission or the thirty-first (31st) day following notice to the Alcoholic Beverage Commission if the Alcoholic Beverage Commission fails to render a decision. If the Alcoholic Beverage Commission reverses the proposed decision of the beer board, then the decision of the beer board with regard to alcoholic beverages shall be vacated subject to any administrative appeal by the city of the Alcoholic Beverage Commission's decision. Even if the beer board's decision is reversed by the Alcoholic Beverage Commission, the beer board's proposed action as to the suspension or revocation of the holder's beer permit shall remain in full force and effect.

(4) If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the Alcoholic Beverage Commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (1981 Code, § 4-56, as replaced by Ord. #2004-44, Jan. 2005, and amended by Ord. #2007-19, July 2007)

8-216. Civil penalty in lieu of revocation or suspension; civil penalty for responsible vendors. (1) Permit holders that are not responsible vendors. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the permit holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

(2) Responsible vendors. Notwithstanding the language of § 8-215(b), the beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. (as repealed by Ord. of 12/10/2001, and replaced by Ord. #2005-01, Feb. 2005, and Ord. #2007-19, July 2007)

8-217. Outdoor advertisement at retail beer establishments. No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement or display which makes reference to the fact that the establishment sells beer but does not use brand names, pictures, numbers, prices or diagrams relating to beer. (1981 Code, § 4-59, as amended by Ord. of 10/28/96, and replaced by Ord. of 6/9/03)

8-218. Oath of office. Before beginning a term of service on the beer board, a member shall take the following oath of office:

"I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of Tennessee, and that I will perform with fidelity the duties of the office to which I have been appointed and which I am about to assume."

(as added by Ord. #2004-21, June 2004)

8-219. Consumer identification requirements; required signs.

(1) Consumer identification requirements. Prior to making a sale of beer for off-premises consumption, the adult consumer must present to the permit holder or any employee of the permit holder a valid, government issued document, such as a driver's license, or other form of identification deemed acceptable to the permit holder, that includes the photograph and birth date of the adult consumer attempting to make a beer purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the permit holder. The permit holder or employee shall make a determination from the information presented whether

the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of beer for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the permit holder or any employee of the permit holder.

(2) Required signs. Responsible vendors shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by eleven inches (8-1/2" x 11 "), and contain the following language:

STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER.
(as added by Ord. #2007-19, July 2007)

8-220. Violations. Violation of any of the provisions of this chapter shall constitute a civil offense. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #2007-19, July 2007)

CHAPTER 3

WINE SALES IN RETAIL FOOD STORES

SECTION

- 8-301. Definitions.
- 8-302. Adoption of state law.
- 8-303. Issuance of retail food store wine license.
- 8-304. Certificate of compliance.
- 8-305. Issuance of certificate of compliance; appeal.
- 8-306. Issuance, renewal, suspension, and termination of retail food store wine license.
- 8-307. Inspection fee.

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

(1) "City" means the City of Cleveland, Tennessee.

(2) "Inspection fee" means a fee equal to five percent (5%) of the wholesale price of wine supplied by a wholesaler to a retail food store wine licensee located within the City of Cleveland.

(3) "Retail food store" means an establishment that is open to the public that derives at least twenty percent (20%) of its sales taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided for in Tennessee Code Annotated, § 67-6-228(a) and has retail floor space of at least one thousand two hundred (1,200) square feet.

(3) "Retail food store wine licensee" means a retail food store that sells wine at retail within the City of Cleveland.

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

(5) "Wholesaler" means any person or entity who sells wine at wholesale to a retail food store wine licensee located within the City of Cleveland.

(6) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominately produced, or an artificial or imitation wine. "Wine" does not mean alcohol derived from wine that

has substantial changes to the wine due to the addition of flavorings or additives. (as added by Ord. #2016-23, July 2016)

8-302. Adoption of state law. There is hereby adopted and incorporated herein by reference the applicable state statutes on retail food store wine sales, codified in Tennessee Code Annotated, § 57-3-801 et seq. (as added by Ord. #2016-23, July 2016)

8-303. Issuance of retail food store wine license. Any person, partnership, limited liability company or corporation desiring to sell wine to patrons or customers within the premises of a retail food store, in sealed packages only, and not for consumption on the premises of a retail food store, shall make application to the alcoholic beverage commission for a retail food store wine license. This application shall comply with the terms and conditions set forth in Tennessee Code Annotated, § 57-3-801 et seq. The city shall not be permitted to limit the number of retail food store wine licensees issued within the city's jurisdiction. (as added by Ord. #2016-23, July 2016)

8-304 Certificate of compliance. As a condition precedent to the issuance of a retail food store license under Tennessee Code Annotated, § 57-3-803, the mayor or a majority of the city council may issue a certificate of compliance by the city according to the terms contained herein. The certificate shall state the following information:

(1) The name and address of each person who will be in actual charge of the business, along with statement that the applicant or applicants who will be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application with the alcoholic beverage commission and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application with the alcoholic beverage commission; and

(2) The name and address of the proposed retail food store applying for a retail food store wine license, and a statement that the applicant or applicants have secured a location for the business which complies with all zoning laws of the City of Cleveland; and

(3) That the applicant or applicants have complied with this chapter and the applicable state laws on retail food store wine sales. (as added by Ord. #2016-23, July 2016)

8-305. Issuance of certificate of compliance; appeal. A failure on the part of the City to grant or deny the applicant's request for a certificate of

compliance within sixty (60) days of the written application shall be deemed a granting of the certificate. If an applicant is denied a certificate of compliance, the applicant may seek a review of the denial of the certificate of compliance by instituting an action in chancery court within sixty (60) days of the denial. (as added by Ord. #2016-23, July 2016)

8-306. Issuance, renewal, suspension, and termination of retail food store wine license. The issuance, renewal, suspension, and termination of retail food store wine licenses and the regulation of and operation by such license holders shall be governed by Tennessee Code Annotated, § 57-3-201 et seq., except where Tennessee Code Annotated, § 57-3-801 et seq. expressly states otherwise. (as added by Ord. #2016-23, July 2016)

8-307. Inspection fee. (1) Inspection fee levied. Pursuant to the authority granted under Tennessee Code Annotated, §§ 57-3-501 through 57-3-504, there is hereby levied on each retail food store wine licensee an inspection fee of five percent (5%) of the wholesale price of any wine supplied to the retail food store wine licensee by any wholesaler. In the event of any subsequent amendment of Tennessee Code Annotated, §§ 57-3-501 through 57-3-504, the inspection fee shall be the maximum allowed by state law.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler from the retail food store wine licensee. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time that the retail food store wine licensee makes payment for the delivery of the wine. A retail food store wine licensee shall create and maintain all records specified by any state statute, rule or regulation relating to the purchase and sale of wine at retail for a period of at least fifteen (15) months following such sale.

(3) Reports. The city clerk shall prepare and make available to each wholesaler selling wine to retail food store licensees sufficient forms for the monthly report of inspection fees payable by such retail food store wine licensees making a purchase of wine from such wholesaler. Pursuant to Tennessee Code Annotated, § 57-3-503, each wholesaler making sales of wine to retail food store wine licensees located within the City of Cleveland shall furnish the City a report monthly, which report shall contain a list of the wine sold to each retail food store licensee within the City of Cleveland, the wholesale price of the wine sold to each retail food store licensee, the amount of any tax due, and such other information as may be required by the city. The monthly report shall be furnished to the city by the wholesaler no later than the twentieth (20th) day of the month following which the sales were made. The inspection fees collected by the wholesaler from the retail food store licensees located within the city of Cleveland shall be paid to the city at the same 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 municipality. 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. Pursuant to Tennessee Code Annotated, § 57-3-503, the city shall have the authority to audit the records of wholesalers reporting to the city in order to determine the accuracy of the reports. The city shall also have the authority to audit the records of the retail food store wine licensees in order to determine the accuracy of such reports related to the inspection fees. Nothing herein shall relieve a retail food store wine licensee from the obligation to pay the municipal inspection fee, and it shall be the duty of the retail food store wine licensee to see that payment of the inspection fee is made to the city on or before the twentieth (20th) day of each month for the preceding month.

(4) Failure to pay fees. The failure of the wholesaler to pay the inspection fee to make the required reports accurately and within the time required by this chapter may result in the suspension or revocation of retail food store wine licensee's privilege license if it is determined by the city that the conduct of the retail food store wine licensee has resulted in the failure of the wholesaler to pay the inspection fees and to make the required reports.

(5) Use of fees. All funds derived from the 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 retail food store wine licensees 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. (as added by Ord. #2016-23, July 2016)

AMENDMENTS TO
TITLE 8
ALCOHOLIC BEVERAGES

ORDINANCE NUMBER 2019-05

AN ORDINANCE TO AMEND TITLE 8, CHAPTER 2, SECTION 8-210 OF THE CLEVELAND MUNICIPAL CODE RELATIVE TO BEER PERMITS TO ADD A NEW CLASSIFICATION OF BEER PERMIT

WHEREAS, the City Council desires to amend Title 8, Chapter 2, Section 8-210 of the Cleveland Municipal Code to create a new classification of beer permit to be called a movie theatre beer permit and to add a new subsection to be numbered 8-210(8) for this type of permit.

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

Section 1. Title 8, Chapter 2, Section 8-210 of the Cleveland Municipal Code is amended by adding the following language to become a new subsection numbered 8-210(8):

8-210 (8). Movie Theatre Beer Permit.

A Class 8 permit is a beer permit issued for the consumption of beer in a movie theatre as defined herein.

To qualify for a movie theatre beer permit, an establishment must meet the distance requirements contained elsewhere in this chapter, as well as the other general requirements imposed in this chapter, with the exception of those requirements explicitly imposed upon another particular class of beer permit only.

In order to qualify for a movie theatre beer permit under this subsection, the movie theatre must also meet all of the following requirements:

(a) the movie theatre must be located in a building which meets all of the requirements of the City of Cleveland's laws and ordinances, including, without limitation, the requirements of the City's building codes, fire codes, and the zoning ordinances of the City;

(b) the movie theatre must be located in permanent building of at least forty thousand square feet (40,000 sq. ft.), with a seating capacity of at least one thousand nine hundred (1,900) people, and containing at least ten (10) auditoriums with screens;

(c) the movie theatre must be a business in which motion pictures are exhibited to the public regularly for a charge;

(d) the movie theater shall regularly serve prepared food to patrons; and

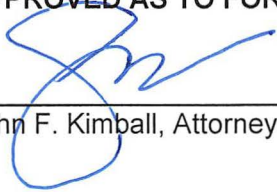
(e) each auditorium in which beer may be consumed shall allow dining at each seat in the auditorium.

The movie theater shall periodically visually monitor all auditoriums in which beer sales are permitted, and each container of beer shall be distinct from any other container used to serve nonalcoholic beverages.

Prior to making a sale of any beer under a movie theatre beer permit, a valid, government-issued document, such as a driver license, or other form of identification deemed acceptable to permit holder, shall be produced to the permit holder. The document must include a photograph and date of birth of the adult consumer attempting to make the beer purchase.

Section 2. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

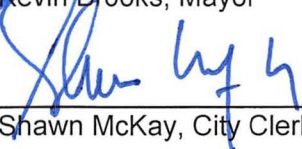
APPROVED AS TO FORM:



John F. Kimball, Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk

ORDINANCE NO: 2019-31

WHEREAS, under Section 8-209(1) of the Cleveland Municipal Code, Class 2 beer permits for on premises consumption are currently limited to fourteen (14) permits; and

WHEREAS, the City Council desires to amend Section 8-209 (1) of the Cleveland Municipal Code to increase the number of Class 2 beer permits from fourteen (14) to sixteen (16).

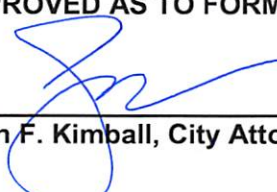
NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Cleveland, Tennessee, in regular session assembled:

Section 1: Title 8, Chapter 2, Section 8-209(1) of the Cleveland Municipal Code is amended by deleting 8-209 (1) in its entirety and replacing it with the following language:

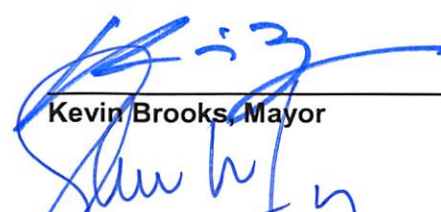
8-209 Beer permits shall be restrictive. (1) All beer permits shall be restrictive as the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. Beer permits for Class 2 on-premises consumption shall be limited to **sixteen (16) permits**. As Class 2 permits are revoked or expire, the limit on the number of Class 2 permits may fall below **sixteen (16)**. If the number of Class 2 permits falls below **sixteen (16)**, applications shall then be accepted for new Class 2 permits. Any new applications for Class 2 permits shall be processed in the order by which the permit applications are received by the City of Cleveland. Unless a new Class 2 permit is issued to a purchaser of a business holding an existing Class 2 beer permit under the provisions of Section 8-209(2), a new Class 2 permit may not be issued by the City of Cleveland so long as the total number of Class 2 permits is **sixteen (16)**. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by their permit. It shall likewise be unlawful for a beer permit holder to fail to comply with any and all express restrictions or conditions which may be written into a permit by the beer board.

Section 2: BE IT FURTHER ORDAINED that this ordinance shall become effective upon passage on final reading, the public welfare requiring it.

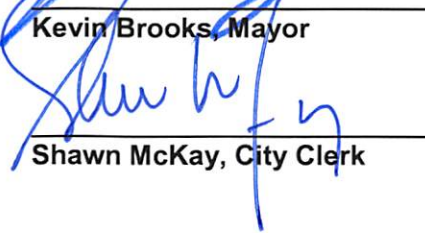
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk

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 ($\frac{1}{2}\%$) 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) 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.

(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.

For those applicants that have previously applied for and received a certificate of compliance from the City Council, those applicants must apply to the State of Tennessee Alcoholic Beverage Commission for a permit by no later than eighteen (18) months from the date that their certificate of compliance was issued.

The City shall provide each of the following applicants with a new certificate of compliance showing both the original issuance date and the expiration date.

The following certificates of compliance have been issued by the City Council, and the table below shows the date of the certificates of compliance were issued and the new expiration date for each certificate.

<u>STORE</u>	<u>ADDRESS</u>	<u>ISSUE DATE</u>	<u>EXPIRATION DATE</u>
Riverstone Wine & Spirits	Ocoee Crossing	2/25/2019	N/A-Store is open
Elxr Wine & Spirits	640 West Inman Street	3/11/2019	9/11/2020
City Spirits	2845 Keith Street	3/20/2019	9/20/2020
Fish Creek Wine & Spirits	5200 N. Lee Highway	6/13/2019	12/13/2020
Red Hot Liquors	1708 Wildwood Avenue	4/8/2019	10/8/2020
Southside Liquor & Wine	1450 Fritz Street	4/8/2019	10/8/2020
Interstate Wine & Spirits	1420 25 th Street	4/8/2019	10/8/2020
Georgetown Wine & Spirits	2325 Georgetown Road	4/8/2019	10/8/2020
Paul's Liquors	2254 Dalton Pike	4/8/2019	10/8/2020
Eagle Liquors	1800 Dalton Pike	4/8/2019	10/8/2020

It is the intent of the City Council that no additional extensions of these certificates of compliance will be granted by the City Council, and that if an applicant fails to apply to the State of Tennessee Alcoholic Beverage Commission on or before the expiration date shown, then the City Council will consider the certificate revoked by the passage of time and the failure of the applicant to apply to the State of Tennessee by the expiration date, and the City shall then consider the certificate canceled and revoked.

Nothing in this section is intended to prohibit an applicant from receiving an extension that any applicant may be entitled to under the rules and regulations of the State of Tennessee Alcoholic Beverage Commission. Therefore, if an applicant applies to the State of Tennessee Alcoholic Beverage Commission on or before the expiration date, then the State of Tennessee's rules and regulations will determine whether an applicant is entitled to an extension.

Nothing in this section is intended to increase the number of certificates of compliance for liquor stores within the City of Cleveland.

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.

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.** 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.

(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.

For only those applicants that have applied for and received a certificate of compliance from the City Council on or before May 13, 2019, those applicants may apply to the City Council to transfer their certificate of compliance from the current approved location to another proposed location, subject to all of the following conditions:

(i) The applicant must submit a complete new application for the proposed new location. The

- new application must contain all of the information required by this chapter.
- (ii) The application must be submitted to the City by no later than September 10, 2019 at 4:00 p.m. eastern standard time.
 - (iii) The new proposed location must meet all of the requirements of this chapter, including, but not limited to the public notice and public hearing requirements.
 - (iv) If the new proposed location is approved by the City Council, then the City will provide the applicant with a certificate of compliance for the new proposed location, and the current certificate of compliance would no longer be valid.
 - (v) Nothing in this section is intended to increase the number of certificates of compliance for liquor stores within the City of Cleveland.

(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.