

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ALCOHOLIC BEVERAGES PROHIBITED IN SPECIFIED AREAS.
4. LIQUOR STORES.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definition of "alcoholic beverages."
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 recorder.

8-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (1976 Code, § 2-101, as replaced by Ord. #2005-11, Oct. 2005)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, 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 Loudon, Tennessee. It is the intent of th city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Loudon, Tennessee, the same as if said code sections where copied herein verbatim. (as added by Ord. #2005-11, Oct. 2005)

¹Municipal code references

Driving under the influence: section 15-104.

Minors in beer places, public drunkenness, etc.: title 11 chapter 2.

State law reference

Tennessee Code Annotated, title 57.

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, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the City of Loudon General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Loudon alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2005-11, Oct. 2005)

8-104. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Loudon shall remit annually to the city recorder 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. 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 to the city recorder. At the time of the passage of the ordinance comprising this chapter, any existing business subject to this tax shall pay the privilege tax on a prorated basis for each month, or portion thereof, remaining until the next payment date. 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, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #2005-11, Oct. 2005)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer business lawful but subject to regulations.
- 8-202. Beer board established.
- 8-203. Application requirements.
- 8-204. Permittees to have good character and reputation.
- 8-205. Interference with public health, safety, and morals prohibited.
- 8-206. Privilege licenses required.
- 8-207. Restrictions upon issuance of on premises beer permits.
- 8-208. Miscellaneous restrictions for on premises consumption permits.
- 8-209. Miscellaneous restrictions for off premise sales permits.
- 8-210. Enforcement.
- 8-211. Permit required for engaging in beer business.
- 8-212. Privilege tax.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.

8-201. Beer business lawful but subject to regulations. It shall hereafter be lawful in this city to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five percent (5%) by weight, or any other beverage of like alcoholic content, subject to all applicable privilege taxes and the regulations hereinafter set out. No brewer or wholesaler of any such beverage or his agent shall be permitted to make any loan or furnish any fixture of any kind or have any interest, direct or indirect, in the business of any retailer of any such beverage, or in the premises occupied by such retailer. (1976 Code, § 2-201, as replaced by Ord. #2005-11, Oct. 2005)

8-202. Beer board established. There is hereby created a beer board which shall be composed of three (3) city property owners appointed by the city council. It shall be the duty of the beer board to regulate and supervise the issuance of permits to manufacture, distribute and/or sell beer and other beverages of an alcoholic content of not in excess of five percent (5%) by weight

¹Municipal code references

Public drunkenness, minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

State law reference

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

to the persons and in the manner hereinafter provided. The board shall perform such other duties and have such other power and authority as herein provided.

The beer board members shall be appointed biennially by the city council at its regular July meeting in odd numbered years and shall serve until their successors are elected. They shall serve without compensation and may be removed without cause by the council.

Immediately after its appointment the beer board shall meet and its members shall take an oath of office and elect a chairman and a secretary from among its members.

The beer board may promulgate its own rules as to making applications for licenses and the procedure for hearings on the same. It shall consider the requests of all applicants and certify to the city recorder the names of all to whom permits are approved, and the city recorder shall sell licenses only to those whose applications are approved. (1976 Code, § 2-202, as replaced by Ord. #2005-11, Oct. 2005)

8-203. Application requirements. Before any person, firm, corporation, joint stock company, syndicate, or association shall be authorized to sell, distribute, and/or manufacture beer, he or it shall make application to the beer board, upon a form prescribed by the board, for a permit so to do and shall pay such state, county, and city privilege taxes as are applicable. The application shall be accompanied by a two hundred fifty dollar (\$250.00) non-refundable applicant fee. All applications shall be sworn to and shall reflect the following:

(1) The name and residence of the applicant and how long applicant has resided there.

(2) The particular place for which a permit is desired, designating the same by street and number, if practicable, and, if not, by such other apt description as definitely locates it.

(3) The kind of permit desired.

(4) The name of the owner of the premises upon which the proposed business is to be carried on.

(5) That the applicant has not had a permit or license for the sale of alcoholic beverages in this state revoked within eight (8) years from the date of application.

(6) That neither the applicant, nor any one interested in said business, has submitted to or been convicted of possessing, transporting, or selling intoxicating liquors or beer within the past eight (8) years, nor submitted to or been convicted of any crime of moral turpitude or any crime which has rendered the applicant infamous.

(7) That no brewer, distiller, or distributor of beer or any other beverage of alcoholic content has any interest, financial or otherwise, in the proposed retail beer business or in the premises upon or in which such business is to be carried on.

(8) That the applicant for a retailer's permit will not thereafter convey or grant to any brewer, distiller, or distributor of beer or any other beverage of alcoholic content any interest in either the said business which is permitted to be carried on, or in any other property at which said business may thereafter be carried on.

(9) That the applicant for a retailer's permit has, at the time of making such application, no indebtedness or other financial obligation to any brewer, distiller, or distributor of beer or other beverages of alcoholic content, and will not, during the period the said permit shall be in force, contract any financial obligation to any brewer, distiller, or distributor of beer or other beverage of alcoholic content other than for the purchase of beer or other beverage of like alcoholic content.

(10) Whether the person applying will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, syndicate, association, or joint stock company.

(11) Any other information which the beer board may reasonably require. (1976 Code, § 2-203, as amended by Ord. #2003-01, Feb. 2003, and replaced by Ord. #2005-11, Oct. 2005)

8-204. Permittees to have good character and reputation. No permit shall be issued to any applicant who does not have a good moral character and reputation. (1976 Code, § 2-205, as replaced by Ord. #2005-11, Oct. 2005)

8-205. Interference with public health, safety, and morals prohibited. No application for a beer permit shall be approved when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1976 Code, § 2-206, as amended by Ord. # 759, Sept. 1986; Ord. #1994-2, § 1, May 1994; and replaced by Ord. #2004-5, March 2004, and Ord. #2005-11, Oct. 2005)

8-206. Privilege licenses required. Permits shall be approved or disapproved by the beer board and if approved privilege licenses shall be issued by the recorder in a manner similar to the issuance of other privilege licenses upon the payment of all applicable privilege taxes. It shall be unlawful for any person to sell, distribute, and/or manufacture beer within the city without having first obtained and conspicuously displayed on his premises all applicable privilege licenses.

Permits and licenses shall not be transferable.

The beer board shall review all existing permits annually and shall require an application prior to this review which will assist in the verification of all information required by this chapter. (1976 Code, § 2-207, as replaced by Ord. #2005-11, Oct. 2005)

8-207. Restrictions upon issuance of on premises beer permits. Permits for the on premise sale of beer shall be issued according to the following classes and limitations, except that this provision shall not be applicable to the renewal of any permit existing and outstanding as of December 1, 2005:

(1) On premises where beer is sold for consumption at a restaurant. Restaurant shall mean a business establishment whose primary business is the sale of prepared food to be consumed on the premises. A restaurant as so defined shall a public place where meals are actually and regularly served, and such place being provided with adequate and sanitary kitchen and dining room equipment, serving at least two (2) meals per day, five (5) days a week, unless a golf course, and the serving of such meals shall be the principal business conducted. There shall be no limitation on the number of beer permits issued to restaurants.

(2) On premise where beer is sold for consumption at a club. Club shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises. There shall be one (1) permit issued to clubs for every three thousand (3,000) population or fraction thereof, according to the latest official census of the City of Loudon.

(3) On premise where beer is sold for consumption on a golf course. Golf course shall mean the entirety of a property where an eighteen (18) hole golf course is located where customers regularly and routinely pay for the privilege of playing the game of golf. The golf course shall further have a restaurant as defined in § 8-207, subsection (1), as part of its golf course operation in order to oversee and regulate the sale and consumption of beer on the golf course property. (1976 Code, § 2-208, as replaced by Ord. #2005-11, Oct. 2005, and amended by Ord. #2009-1, Jan. 2009, and Ord. #2010-01, Jan. 2010)

8-208. Miscellaneous restrictions for on premises consumption permits. It shall be unlawful for any beer permit holder for on premises consumption to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor or beer or any crime involving moral turpitude within the past eight (8) years.

(2) Employ any person under eighteen (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 6:00 A.M. Monday through Saturday or between 3:00 A.M. and 10:00 A.M. on Sunday.

(4) Allow any loud, unusual or obnoxious noises to emanate from his premises.

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

(6) Allow any person under eighteen (18) years of age to loiter in or about his place of business.

(7) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(8) Allow drunk or disreputable persons to loiter about his premises.

(9) Serve, sell, or allow the consumption on his premises of any beer or malt beverage with an alcoholic content of more than five percent (5%) by weight.

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

(11) Fail to call the police when any person comes upon his premises in a drunken or partly drunken condition.

(12) Sell beer to motorists in automobiles or trucks parked at or near the place of business for consumption in said automobile or truck.

(13) Maintain frosting or paint upon the doors or windows of his place of business so as to obstruct the view into such place. (1976 Code, § 2-209, as amended by Ord. # 760, Dec. 1986, and Ord. #2003-01, Feb. 2003, as replaced by Ord. #2005-11, Oct. 2005)

8-209. Miscellaneous restrictions for off premise sales permits. It shall be unlawful for any beer permit holder for off premise consumption to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor or beer or any crime involving moral turpitude within the past eight (8) years unless the business is an active participant in the Responsible Vendor Act of 2006.

(2) Employ any person under eighteen (18) years of age to sell beer.

(3) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M. during any night of the week, or between the hours of 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 eighteen (18) years of age to loiter in or about his place of business.

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

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

(8) Allow the consumption of beer on his premises. (1976 Code, § 2-210, as amended by Ord. # 760, Dec. 1986, and Ord. #2003-01, Feb. 2003, as replaced by Ord. #2005-11, Oct. 2005, and amended by Ord. #2009-01, Jan. 2009)

8-210. Enforcement. The police officers of the city shall have the right to inspect at any and all times the entire premises where beer is sold. (1976 Code, § 2-211, as replaced by Ord. #2005-11, Oct. 2005)

8-211. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture

beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Loudon. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (1976 Code, § 2-212, as replaced by Ord. #1993-15, § 1, Oct. 1993, as replaced by Ord. #2005-11, Oct. 2005)

8-212. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Loudon, 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 added by Ord. #1993-15, § 1, Oct. 1993)

8-213. Revocation or suspension of beer permits. The beer board may revoke the beer permit or license of any person who makes a false statement in his application for a permit, who violates any provision of this chapter, or who is convicted for the possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude. When any beer permit is revoked no new permit shall be approved by the beer board for the same person within the next ten (10) years or for the same location within the next twelve (12) months.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1976 Code, § 2-212, as replaced by Ord.

#1993-15, § 1, Oct. 1993, and replaced by Ord. #2005-11, Oct. 2005, and amended by Ord. #2009-01, Jan. 2009)

8-214. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a 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.

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #1993-15, § 1, Oct. 1993, and replaced by Ord. #2005-11, Oct. 2005, and Ord. #2009-01, Jan. 2009)

8-215. Loss of clerk's certification for sale to minor. 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. (as added by Ord. #2009-01, Jan. 2009)

CHAPTER 3

ALCOHOLIC BEVERAGES PROHIBITED IN SPECIFIED AREAS

SECTION

8-301. Public consumption of beer prohibited.

8-302. Penalty.

8-303. Signs to be posted.

8-301. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or school, whether public or private, nor upon any park or public grounds nor upon vacant lots within two hundred (200) feet of any public street, highway, avenue, or other public place. (as added by Ord. #2004-12, June 2004, and replaced by Ord. #2005-11, Oct. 2005)

8-302. Penalty. Penalty for violation: violators of the provisions of this chapter shall be subject to a fine of fifty dollars (\$50.00) per violation per day. Violators may be barred from future use of parks and recreation facilities for a period of one (1) year from the date of violation as determined by the city recreation director when the consumption occurred in any facility owned by the City of Loudon or operated by the Loudon Recreation Department. (as added by Ord. #2004-12, June 2004, and replaced by Ord. #2005-11, Oct. 2005)

8-303. Signs to be posted. The main entrances of all such parks and recreation facilities shall have posted a sign that reads "No Alcoholic Beverages Permitted - violators subject to a \$50.00 fine and disbarment from future use of the facilities." (as added by Ord. #2004-12, June 2004, and replaced by Ord. #2005-11, Oct. 2005)

CHAPTER 4

LIQUOR STORES

SECTION

- 8-401. Definitions.
- 8-402. Selling and distributing generally.
- 8-403. Licenses required for sale of alcoholic beverages at retail.
- 8-404. Licensee responsible for officers and agents.
- 8-405. Location of liquor store.
- 8-406. Limitations on building containing liquor store.
- 8-407. Restrictions generally.
- 8-408. Fees.
- 8-409. Records kept by licensee.
- 8-410. Inspections generally.
- 8-411. Enforcement--violations--penalties.
- 8-412. Certificate of compliance.
- 8-413. Application.
- 8-414. Consideration.
- 8-415. Restrictions upon issuance.
- 8-416. License from city to operate liquor store.
- 8-417. Restrictions on local liquor retailer's licenses.
- 8-418. Restrictions upon licensees and employees.
- 8-419. Nature of license; suspension or revocation.

8-401. Definitions. Whenever used in this title, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Alcoholic beverage." 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 beverage 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 (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.

(2) "Applicant." A person applying for a local liquor store privilege license or a certificate of compliance, as the context provides.

(3) "Applicant group." 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.

(4) "Application." 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.

(5) "Certificate of compliance." The certificate required in Tennessee Code Annotated, § 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.

(6) "City." The city is the City of Loudon, Tennessee.

(7) "Co-licensees." Persons who together hold a single local liquor store privilege license for a single liquor store.

(8) "Federal statutes." The statutes of the United States now in effect or as they may hereafter be changed.

(9) "Inspection fee." 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.

(10) "License fee." 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.

(11) "Licensee." 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 local liquor store privilege license shall be a licensee subject to the rules and regulations herein.

(12) "Liquor store." 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.

(13) "Local liquor store privilege license." 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.

(14) "Manufactured." A structure, transportable in one (1) or more sections, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation.

(15) "Person." 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.

(16) "Retail sale or sale at retail." The sale to a consumer or to any person for any purpose other than for resale.

(17) "State law, rules and regulations." 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 including, without limitation, the local option liquor rules and regulations of the Tennessee Alcoholic Beverage Commission.

(18) "State liquor retailer's license." A license issued by the alcoholic beverage commission of the State of Tennessee pursuant to Tennessee Code Annotated, § 57-3-201 et seq. permitting its holder to sell alcoholic beverages at retail in Tennessee.

(19) "Wholesaler." 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.

(20) "Wine." 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 climactic, saccharine, and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. (as added by Ord. #2009-02, Jan. 2009)

8-402 Selling and distributing 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 title. (as added by Ord. #2009-02, Jan. 2009)

8-403. 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 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 him or her to sell alcoholic beverages at retail. Transfer of ownership or possession of any alcoholic beverage by a licensee in any manner other than by retail sale is prohibited. (as added by Ord. #2009-02, Jan. 2009)

8-404. 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 by any colicensee, officer, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (as added by Ord. #2009-02, Jan. 2009)

8-405. 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 unless at a location approved by city council. All such stores shall be located within the C-1, C-2, or C-4 zones as appears on the official zoning map of the City of Loudon on the date of application. Such liquor store shall not be located within two hundred feet (200') of any church or school as measured along a straight line from the nearest property line of any such establishment to the front door of the liquor store. 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. (as added by Ord. #2009-02, Jan. 2009)

8-406. Limitations on building containing liquor store. All liquor stores shall be a permanent type of construction in a material and design approved by city council. No liquor store shall be located in a manufactured or other movable or prefabricated type of building. All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the liquor store display area shall be one thousand five hundred (1,500) square feet. Full, free and unobstructed vision shall be afforded to and from the street and public highway 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. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, as adopted within the City of Loudon Municipal Code, unless specifically stated otherwise herein. (as added by Ord. #2009-02, Jan. 2009)

8-407. Restrictions generally. (1) Entertainment devices and seating forbidden. No form of entertainment, including pinball machines, music machines 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.

(2) Time and days of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on any Sunday. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before eight o'clock in the morning (8:00 A.M.) or after eleven o'clock at night (11:00 P.M.). No liquor store shall be open for business on Christmas, Thanksgiving, New Year's Day, Labor Day or the Fourth of July.

(3) 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 or to a person visibly intoxicated. It shall be unlawful for such person to enter or remain in a liquor store (except that 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) or to loiter in the immediate vicinity of a liquor store. 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.

(4) 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 a liquor store or in the immediate vicinity of a liquor store.

(5) Advertising. There shall be no advertising signage 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. The provisions of the City of Loudon Zoning and Land Use Control Regulations, chapter 6, and any other city ordinances or regulations addressing signs shall not apply to liquor stores unless any specific restrictions on signs or advertising in the zone where a liquor store is located are more restrictive than the restrictions contained herein, in which case the more restrictive provision shall apply. 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 twenty (20) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within the letters themselves through signs lit by back lighting are permitted. No reader board or changeable copy signs shall be permitted. One (1) free-standing sign shall be allowed on the premises. No off-premises signs shall be allowed within the city. Regarding signage inside a liquor store, no banner or temporary or permanent signage shall be placed so that it obstructs free and clear vision of the interior of the liquor store from outside of the liquor store.

(6) 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 there be permitted drive-in windows. No licensee shall employ any canvasser, agent, solicitor, or other representative for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer nor shall any licensee receive or accept any such order which shall have been solicited and received at the residence or place of business of such consumer. 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. (as added by Ord. #2009-02, Jan. 2009)

8-408. Fees. (1) Amounts generally. There is hereby levied on each licensee an inspection fee of five percent (5%) on the gross purchase price of any alcoholic beverages acquired by the licensee for retail sale from any wholesaler or any other source.

(2) Collection. Collection of such inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. Payment of all such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part.

(3) Reports. The city recorder shall prepare and make available to each wholesaler and other source vending alcoholic beverages to licensees sufficient forms for the monthly report of inspection fees payable by such licensee making purchases from such wholesaler or other source. Such wholesaler shall timely complete and return the forms and the required information and inspection fees within the time specified above.

(4) Failure to pay fees. The failure to pay the inspection fees and to make the required reports accurately and within the time required by this chapter shall, at the sole direction of the city manager, be cause for suspension of the offending licensee's local liquor store privilege license for as much as thirty (30) days and, at the sole discretion of the city council, be cause for revocation of such local liquor store privilege license. Each such action may be taken by giving written notice thereof to the licensee, no hearing with respect to such an offense being required. If a licensee has his or her license revoked, suspended or otherwise removed and owes the city inspection fees at the time of such suspension, revocation, or removal the city attorney may timely file the necessary action in a court of appropriate jurisdiction for recovery of such inspection fees. Further, each licensee who fails to pay or have paid on his or her behalf the inspection fees imposed hereunder shall be liable to the city for a penalty on the delinquent amount due in an amount of ten percent (10%) of the inspection fee.

(5) Use of fees. All funds derived from inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this title 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 title 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. #2009-02, Jan. 2009, and amended by Ord. #2009-07, Oct. 2009)

8-409. Records kept by licensee. 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; and

(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.

All such records shall be preserved for a period of at least fifteen (15) months unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. In the event of co-licensees holding a single license, one (1) set of records per liquor store satisfies the requirements of this part. (as added by Ord. #2009-02, Jan. 2009)

8-410. Inspections generally. The city manager, the city recorder, the city finance director, 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. (as added by Ord. #2009-02, Jan. 2009)

8-411. Enforcement - violations - penalties. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of chapter 3 of title 57 of the Tennessee Code Annotated, and the rules and regulations of said commission. (as added by Ord. #2009-02, Jan. 2009)

8-412. 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. (as added by Ord. #2009-02, Jan. 2009)

8-413. Application. (1) Filing - content. An applicant or applicant group for a liquor store shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city manager may require:

(a) 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;

(b) The name of the liquor store proposed;

(c) The address of the liquor store proposed and its zoning designation;

(d) The statement that an individual applicant or at least one (1) member of an applicant group has been a resident of the City of Loudon or a resident of Loudon County, Tennessee for at least three (3) years immediately prior to the time the application is filed or, in the case of a partnership, corporation, or limited liability company that at least fifty-one percentage (51%) of the partnership, corporation, or limited liability company be owned by natural persons who have been a resident of the City of Loudon or a resident of Loudon County, Tennessee for at least three (3) years prior to the time the application is filed;

(e) 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;

(f) 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.

(2) 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 the same application and 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:

(a) The shape, size and location of the lot which the liquor store is to be operated under the license;

(b) The shape, size, height and location of all buildings whether they are to be erected, altered, moved or existing upon the lot;

(c) 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

(d) The identification of every parcel of land within two hundred feet (200') of the lot upon which the liquor store is to be operated indicating ownership thereof and the location of any structures thereon and the use being made of every such parcel.

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

(4) Misrepresentation - concealment of fact - 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.

(5) Fees. Each application shall be accompanied by a non refundable three hundred dollar (\$300.00) investigation fee. One (1) application fee per applicant group is sufficient. (as added by Ord. #2009-02, Jan. 2009)

8-414. Consideration. In issuing the initial certificates of compliance sufficient for the licensing of up to two (2) liquor stores in the city permitted by this chapter, the city council will consider all applications filed, before a closing date to be fixed by it and after publication of notices published in a newspaper of general circulation in Loudon County, Tennessee required by state law. City council will select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances for the lawful operation of a liquor store without regard to the order of time in which the applications are filed. Such persons and only such persons shall receive the initial certificates of compliance issued by the city. If, thereafter, an additional license becomes available due to the cancellation, revocation or otherwise of a previously issued license, city council will select from all pending applications the applicant or applicant group deemed by it to have the qualifications required by law and the most suitable circumstances for the lawful operation of a liquor store after a closing date to be fixed by it upon public notice of the availability of such license. Such person or persons and only such person or persons will receive certificates of compliance issued by the city sufficient to allow the operation of the liquor store contemplated by the chosen application. Applications shall be retained by the city until such time as all liquor stores for which certificates of compliance have been issued by the city are

opened for business. At that time, all pending applications which did not result in the granting of certificates of compliance after consideration by city council will expire and be disposed of by the city. Applications can only be submitted to the city during the time frame the city council has set forth for receipt of such applications. Applications and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the city and constitute public records open to public inspection. (as added by Ord. #2009-02, Jan. 2009)

8-415. Restrictions upon issuance. (1) Additional certificates of compliance. The city council shall not issue a certificate of compliance unless there is an available liquor store license for which no certificate of compliance has been issued and license approval by the Tennessee Alcoholic Beverage Commission is pending.

(2) No violation 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.

(3) Prerequisites of issuance. The city manager upon approval of city council shall not sign any certificate of compliance for any applicant or applicant group until:

(a) Such application has been filed with the city recorder;

(b) 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

(c) The application has been considered at a public meeting of the city council and approved by a vote of at least three (3) members thereof.

(4) Time period for action. Any applicant or applicant group who has obtained a certificate of compliance as provided herein must, unless an extension is granted by city council, within six (6) months open a liquor store in the city or said certificate will be revoked by the passage of this amount of time and a certification thereof will be sent to the alcoholic beverage commission of the State of Tennessee and the local liquor license issued pursuant to such application shall be considered canceled and revoked. (as added by Ord. #2009-02, Jan. 2009)

8-416. License from city to operate liquor store. After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, §§ 57-3101, et seq., he or she shall apply to the city recorder for a local liquor retailer's license to operate a retail liquor store pursuant to the following terms, conditions and restrictions. (as added by Ord. #2009-02, Jan. 2009)

8-417. Restrictions on local liquor retailer's licenses. (1) Maximum number of licenses. No more than two (2) local liquor retailers' licenses for the sale of alcoholic beverages at liquor stores shall be issued under this chapter representing no more than two (2) liquor stores in the city.

(2) Term renewal. Each license shall expire on December 31st of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) Display. A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) Transfer. A licensee or co-licensee shall not sell, assign or transfer his or her license or any interest therein to any other person. No license shall be transferred from one location to another location without the express permission of city council.

(5) Fees. A license fee of five hundred dollars (\$500.00) is due at the time of application for a 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 recorder before any license shall issue.

(6) Sale of business. Upon compliance with all the requirements of §§ 8-312 and 8-313 by such individual or other legal entity, their heirs, successors, or assigns seeking to purchase or continue operation of an existing liquor store, city council may authorize a new certificate of compliance to said successor. The application for such new certificate of compliance shall be accompanied by a non-refundable three hundred dollar (\$300.00) investigation fee. (as added by Ord. #2009-02, Jan. 2009, and amended by Ord. #2010-12, Oct. 2010)

8-418. Restrictions upon licensees and employees. (1) Initial qualifications. To be eligible to apply for or to receive a license, an applicant or in the case of an applicant group, each member of the applicant group, must satisfy all of the requirements of the state statutes and of the state rules and regulations for the holder of a liquor retailer's license.

(2) 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, city or county. 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.

(3) 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 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.

(4) 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 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.

(5) 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 intoxicating liquors or beer who has during such period been engaged in business, alone or with others, in violation of any such laws or rules and regulations.

(6) 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 manager and approved by him or her in a timely manner.

(7) 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) Interest in only one liquor store. A person shall have an interest, either direct or indirect, in no more than one (1) liquor store licensed under this title in the City of Loudon. (as added by Ord. #2009-02, Jan. 2009)

8-419. 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 title 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 this title 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 manager may immediately suspend the license for a period not to exceed sixty (60) days, and the city council may revoke 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. (as added by Ord. #2009-02, Jan. 2009)