

ORDINANCE 2016-03

TO BE ENTITLED, "AN ORDINANCE AMENDING TITLE 8, CHAPTER 1 OF THE FRANKLIN MUNICIPAL CODE RELATIVE TO ALCOHOL OTHER THAN BEER TO PROVIDE GUIDANCE FOR RETAIL FOOD STORES AND OTHER GENERAL HOUSEKEEPING."

WHEREAS, cities in which voters approved the sale of wine in grocery stores ("Retail Food Stores") are required to issue certificates before Retail Food Stores may be licensed to sell wine by the Tennessee Alcoholic Beverage Commission; and

WHEREAS, the voters of the City of Franklin approved such sales by referendum; and

WHEREAS, the Board of Mayor and Aldermen desire to update Title 8, Chapter 1 of the Franklin Municipal Code to acknowledge the change in state and local law permitting the sale of wine in Retail Food Stores; and

WHEREAS, the Board of Mayor and Aldermen desire to update Title 8, Chapter 1 of the Franklin Municipal Code to provide other general cleanup to ensure its provisions are fully up-to-date with other state law references; and

WHEREAS, the Board of Mayor and Aldermen believe it is in the best interests of the citizens of the City of Franklin to enact these updates.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION 1. That Title 8, Chapter 1 of the Franklin Municipal Code is amended by adding text shown in **bold** and deleting text shown in ~~strike through~~ and renumbering sections as appropriate, so that it shall read as follows:

"Sec. 8-101. - Subject to law and regulations.

It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of the City of Franklin except in accordance with the provisions of Tennessee Code Annotated, title 57, chapter 3, and rules and regulations promulgated thereunder, and as provided in this chapter.

Sec. 8-102. - Terms defined.

Whenever used herein unless context requires otherwise:

- (1) Alcoholic beverage or beverage means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine, beer or wine, where the latter two contain an alcoholic content of five percent by weight, or less.
- (2) **Certificate or certificate of compliance means the certificate required pursuant to Tennessee Code Annotated §§ 57-3-208 or 57-3-806, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this article for issuance of such a certificate.**
- (3) License means the license issued herein or by the Tennessee Alcoholic Beverage Commission and licensee means any person to whom such license has been issued.

- (4) Retail sale or sale at retail means a sale to a consumer or to any person for any purpose other than for resale.
- (5) **Retail food store means an establishment which is eligible for the issuance of a retail food store wine license by the alcoholic beverage commission of the state, pursuant to Tennessee Code Annotated Title 57, Chapter 3, Part 8.**
- (6) **Retail liquor store means any business which is required to have a license for the retail sale of alcoholic spirituous beverages, including beer and malt beverages, under the provisions of Tennessee Code Annotated Title 57, Chapter 3, Part 2.**
- (7) Retailer means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.
- (8) Manufacturer means and includes a distiller, vintner and rectifier. Manufacture means and includes distilling, rectifying and operating a winery.
- (9) Wholesale sale or sale at wholesale means a sale to any person for purposes of resale.
- (10) Wholesaler means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101—57-3-110.
- (11) ~~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, saccharin and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed 21 percent 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 predominantly produced, or an artificial or imitation wine.~~ **the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by T.C.A. §§ 57-3-101 and 57-3-802, as the same may be amended, supplemented or replaced.**
- (12) The word gallon or gallons wherever used herein, shall be construed to mean a wine gallon or wine gallons, of 128 ounces. The word quart whenever used herein will be construed to mean one-fourth of a wine gallon. The word pint wherever used shall be construed to mean one-eighth of a wine gallon.
- (13) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.
- (14) The term federal license as used herein shall not mean tax receipt or permit.
- (15) Person means any private individual, partnership, joint venture, corporation, or any other business entity or association.
- (16) Premises means on the property owned, leased, or controlled by the licensee and so connected with the liquor business in which the licensee is engaged as to form a component or integral part of it, including, but not limited to, the building and the parking areas surrounding it. "Premises" includes all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business identified in the permit. "Premises" does not include sidewalks as defined in chapter 3 of this title, unless a separate sidewalk dining permit for an outdoor cafe has been issued and the sidewalk dining permittee is in compliance with the terms therein.
- (17) Curb service means all sales transacted outside of the building where the business is carried on. The intent of this provision being to insure that the sale and purchase of alcoholic beverages is transacted in a face-to-face meeting between the salesperson and the customer, with the customer outside of a motor vehicle and under such circumstances that the salesperson has a reasonable opportunity to determine if the customer is then in an intoxicated condition or is a minor.

~~Sec. 8-103. — Manufacturing prohibited.~~

~~The manufacture of alcoholic beverages is prohibited within the corporate limits.~~

Sec. 8-104. - Revocation procedures.

Whenever the board of mayor and aldermen find that a licensee has been, or is, in violation of the provisions of Tennessee Code Annotated, title 57, chapters **1 through 4**, or the provisions of this chapter, they shall certify such violation to the state alcoholic beverage commission, in such form as the commission requires, which shall have the responsibility for determining whether the offender's license shall be revoked.

Sec. 8-105. Certificate of compliance required prior to issuance of license.

As a condition precedent to the issuance of a license by the state alcoholic beverage commission, an applicant for a license shall first obtain a certificate of compliance from the city, as provided below:

- (1) **Retail liquor stores.** Any person intending to apply for a state license for a retail liquor store shall first apply for a certificate of compliance from the city, pursuant to Tennessee Code Annotated § 57-3-803. The application for a certificate shall be in writing on a form furnished by the city recorder. The application shall identify the name and address of the owner of the property for which the certificate is sought, and shall be accompanied by evidence that the owner has agreed to allow the proposed retail store to be operated on the property upon issuance of a license. Applications will be considered in the chronological order in which they are received, and no consideration will be given to the fact that other applications have subsequently been received. The certificate shall be granted or denied by the Board of Mayor and Aldermen within 60 days after the application for the certificate is submitted to the city recorder and, if granted, shall be signed by the mayor or a majority of the board of mayor and aldermen. A certificate of compliance for a retail liquor store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the alcoholic beverage commission within six months of the date of the certificate, or if the retail liquor store for which a certificate was granted is not in operation within 12 months following the issuance of the certificate; provided, however, that the board of mayor and aldermen may, upon written request of the applicant, extend the expiration date of a certificate for up to three additional months in the event of circumstances beyond the applicant's control. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application is submitted and all applicable requirements of this article are met at the time the new application is received. The mayor shall be authorized to issue a certificate of compliance required in connection with the renewal of an existing license pursuant to Tennessee Code Annotated § 57-3-213 without deliberation by the full Board of Mayor and Aldermen. If the mayor fails or refuses to issue a certificate required in connection with a license renewal, members of the Board of Mayor and Aldermen may sign the certificate and the certificate shall be issued when a majority of the members have signed it.
- (2) **Retail food stores.** Any person intending to apply for a state license for the sale of wine at a retail food store shall first apply for a certificate of compliance from the city, pursuant to Tennessee Code Annotated § 57-3-208. The application for a certificate shall be in writing on a form furnished by the city recorder. Upon verification that the applicant meets the requirements of Tennessee Code Annotated § 57-3-208(b), the mayor may issue the certificate without action by the Board of Mayor and Aldermen. Alternatively, members of the Board of Mayor and Aldermen may sign the certificate and the certificate shall be issued when a

majority of the members have signed it. The certificate shall be granted or denied within 60 days after the application for the certificate is submitted to the city recorder. A certificate of compliance for the sale of wine at a retail food store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the alcoholic beverage commission within six months of the date of the certificate, or if the retail food store for which a certificate was granted is not in operation within 12 months following the issuance of the certificate; provided, however, that the mayor or a majority of the board of mayor and aldermen may, upon written request of the applicant, extend the expiration date of a certificate for up to three additional months in the event of circumstances beyond the applicant's control. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application is submitted and all applicable requirements of this article are met at the time the new application is received.

Sec. 8-106. - Restrictions as to location of retailers.

~~No license shall be granted for the operation of a retail store for the sale of alcoholic beverages on any premises except on premises which are zoned GC (General Commercial), CC (Central Commercial), NC (Neighborhood Commercial), ML (Local Mixed Use), MN (Neighborhood Mixed Use), or MR (Regional Mixed Use) as shown on the official zoning map. Within these districts no alcoholic beverages shall be sold, distributed, or stored on any premises that shall be located within 300 feet of any church, school ground, or college campus or within 200 feet of a public library or residential dwelling unit, as defined by the zoning ordinance, except if the dwelling unit is located within a building that contains mixed-uses. No license shall be issued to any retail liquor dealer where the place of business of the licensee is located within 300 feet of another retail liquor store. Distances shall be measured in the most direct means from main entrance door to main entrance door. "Schools" and "colleges" shall include, but are not limited to, licensed day care or childcare facilities, but shall not include any private colleges or schools where only specialized business, such as law, stenography, business, music, art, medicine, dentistry, vocational occupations or other business subjects are taught. In determining the distance from any public library, school, church ground or college campus, the distance shall be measured from the center of the main entrance of such structures and following the usual and customary path of pedestrian travel to the center of the main entrance of the proposed liquor store. As a further limitation on the location of retail stores for the sale of alcoholic beverages, when, in the opinion of the board of mayor and aldermen, expressed by the passage of an appropriate resolution, the carrying on of a business for the operation of a retail store for the sale of alcoholic beverages at the location covered by the application for a license would be inimical to the public interest, the board shall so advise the alcoholic beverage commission and shall instruct the city attorney to oppose the issuance of the license. Further, any approval of license is contingent on state and local laws, which take precedence over this section.~~

- (1) A certificate issued under this article for a retail liquor store or for the sale of wine at a retail food store shall be valid only for the premises proposed in the application, and any change of location of the business shall be cause for immediate nullification of the certificate. No certificate of compliance shall be issued for the operation of a retail liquor store or for the sale of wine at a retail food store where such store would be a prohibited use under the city's zoning ordinance. No license shall be granted for the operation of a retail liquor store on any premises except on premises which are zoned GC (General Commercial), CC (Central Commercial), NC (Neighborhood Commercial), or Specific Development-Mixed Use (SD-X) as shown on the official zoning map. Furthermore, no certificate shall be issued for a retail liquor store where the proposed place of business is located:**

- (a) Within 200 feet of a public library or a private residence which is in a residential zoning district (except if the private residence is located within a building that contains mixed uses).
 - (b) Within 300 feet of any structure used as a church or other religious institution, school or college. "School" and "college," as used herein, shall include, but are not limited to licensed day care or childcare facility, but shall not include private colleges or schools wherein only specialized subjects, such as music, art, cosmetology, computer skills or vocational occupations are taught.
 - (c) Within 300 feet of another retail liquor store.
- (2) The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, provided that proximity of a retail liquor store to a private residence, religious institution, school, college, or public library shall not be grounds for revocation of a license or denial of a certificate if a valid license had been issued to any business at that same location, and the business has been in continuing operation since issuance of that license.
- (3) In determining the distances from any structure used as a private residence, religious institution, school, college, public library or existing retail liquor store, the distance shall be measured from the main entrance door of such structure to the nearest public entrance of the proposed retail liquor store, following the usual and customary path of pedestrian travel along streets and/or sidewalks.

Sec. 8-107. - Limitation on number of retailers to be licensed.

Within the corporate limits of the City of Franklin there shall be a limit on the number of retailers licensed to sell alcoholic beverages. That limit shall be one retailer for every 3,000 inhabitants, or fraction thereof, according to the latest federal census, whether regular or special. No person, firm or corporation shall be licensed under this chapter or permitted by the City of Franklin to engage in the sale or distribution of alcoholic beverages in excess of one licensee for every three thousand inhabitants of Franklin, or fraction thereof, according to the last federal census, whether regular or special. When the number of licenses issued under this chapter for retail dealers in alcoholic beverages within the corporate limits of the City of Franklin equals one for every three thousand inhabitants of said town or fraction thereof, according to the last federal census, whether special or regular, all other applications for a license to engage in the retail sale of alcoholic beverages within the limits of said city shall be opposed by the City of Franklin before the alcoholic beverage commission, unless or until some person, firm or corporation holding such a valid license discontinues the operation of a retail liquor establishment. Provided, however, that nothing in this section shall prohibit or in any manner affect the renewal of any retail license in the continuation of the operation of any retail store licensed and in operation on March 8, 1966.

Sec. 8-108. - Bonds of licensees.

Bonds required herein shall be executed by a surety company duly authorized and qualified to do business in Tennessee. Bonds of retailers shall be as specified in appendix A, comprehensive fees and penalties. The bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against the principal.

Sec. 8-109. - Restrictions on license holders and employees.

- (1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for such license. In addition to all other penalties, a violation of this section shall authorize and require the board of mayor and aldermen to take action pursuant to section 8-104 of this chapter, regarding the revocation of the

license, if any, of the person so paying for the license of another and/or the license of the person for whom the license was purchased.

- (2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.
- (3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten years prior to the time he or she or the concern with which he or she is connected shall receive a license. However, this provision shall not apply to any person who has been convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he or she is connected shall immediately discharge him or her.
- (4) No license shall under any condition be issued to any person who within ten years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business, alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto.
- (5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises or any other person having a license hereunder or in the fixtures of any such person.
- (6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensee, unless his interest in said business and the nature, extent, and character thereof shall appear on the application. If the interest is acquired after the issuance of a license it shall be fully disclosed to the board of mayor and aldermen and approved by it. Where such interest is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he or she, himself or herself, signs or prepares the application, or whether the same is prepared by another. If said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser. If any person shall violate the provisions of this subsection, he or she shall be guilty of a misdemeanor and, upon conviction thereof shall be fined as specified in appendix A, comprehensive fees and penalties.
- (7) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.
- (8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of 18 years. It shall be unlawful for any retailer to employ any person under 18 years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person in its place of business to engage in the storage, sale or distribution of alcoholic beverages.
- (9) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten years prior to the date of his or her employment shall have been convicted of a felony involving moral turpitude. In case an employee should be convicted he or she shall immediately be discharged. However, these provisions 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.

- (10) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.
- (11) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter.

Sec. 8-110. - Residency requirement for managing agents and licensees.

No license shall be issued to any person who has not been a resident of Williamson County, Tennessee, for a period of at least two years prior to the issuance of said license. When a license is applied for in the name of a corporation, the license shall be issued jointly with that corporation's managing agent, and no license shall be issued to a managing agent unless that managing agent has been a resident of Williamson County, Tennessee, for a period of at least two years prior to the issuance of said license.

Sec. 8-111. - Display of licenses.

Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.

Sec. 8-112. - Transfer of licenses restricted.

The holder of a license may not sell, assign, or transfer such license to any other person, and the license shall be good and valid only for the calendar year in which the same was issued. However, licensees who are serving in the military forces of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section.

Sec. 8-113. - New license after revocation.

Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date said revocation becomes final and effective.

Sec. 8-114. - Federal license, effect of.

The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter.

Sec. 8-115. - Inspection fee.

- (1) There is hereby levied upon every licensee under this chapter an inspection fee as specified in appendix A, comprehensive fees and penalties, for all alcoholic beverages sold and/or supplied by a wholesaler of alcoholic beverages to said licensee within the corporate limits of the City of Franklin, Tennessee, said fee to be collected by the wholesaler as hereinafter provided.
- (2) The inspection fee shall be collected by the wholesaler from the licensee following notice given the wholesaler by the city recorder of the City of Franklin, Tennessee, of the passage of this chapter. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the licensee makes payment for the delivery of the alcoholic beverages.

- (3) Each wholesaler making sales to licensees located within the corporate limits of the City of Franklin, Tennessee, shall furnish the municipality a report monthly, which report shall contain a list of the alcoholic beverages sold in each licensee located within the municipality, the wholesale price of the alcoholic beverages sold to each licensee, the amount of the inspection fee due and such other information as may be required by the municipality. A monthly report shall be furnished the municipality imposing the inspection fee not later than the 20th of the month following the month in which the sales were made. The inspection fees collected by the wholesalers from the licensee or licensees located within the municipality shall be paid to the municipality at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the municipality shall be entitled to reimbursement for this collection service a sum as specified in appendix A, comprehensive fees and penalties, and remitted, such reimbursement to be deducted and shown on the monthly report to the municipality.
- (4) The failure of the wholesaler to collect or timely report and/or pay the inspection fees collected shall result in a penalty as specified in appendix A, comprehensive fees and penalties, which shall be payable to the municipality.
- (5) The inspection fee provided for herein shall be in lieu of all other gross receipt or inspection fees imposed upon wholesalers or licensees under this chapter on alcoholic beverages by the municipality.
- (6) The municipality shall have the authority to audit the records of the wholesalers and/or licensees subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers and/or licensees.

Sec. 8-116. - Regulations for purchase and sale of intoxicating liquors.

- (1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him or her.
- (2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.
- (3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on.
- (4) No retail **liquor** store shall be located except on the ground floor and it shall have one main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail **liquor** store is located on the corner of two public streets such retail store may maintain a door opening on each of the public streets. Any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public. Also, every retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. When a retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, under circumstances that said liquor store would not have a main entrance or door opening onto a public street, the board of mayor and aldermen in its discretion may nevertheless approve the issuance of a liquor license for said location, pursuant to section 8-106 of this chapter. However, nothing in this subsection shall prohibit or in any manner limit or affect the renewal of any retail license in the continuation of the operation of any retail store licensed and in operation on March 8, 1966.
- (5) No holder of a license for the sale of alcoholic beverages at retail shall sell, deliver, or cause, permit or procure to be sold or delivered, any alcoholic beverage on credit.
- ~~(6) No alcoholic beverages shall be sold for consumption on the premises of the seller.~~

- (7) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and curbside service is not permitted.
- (8) To the fullest extent, consistent with the structure of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.
- ~~(9) No form of entertainment, including pin ball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.~~
- (10) Advertising by a licensee, and signs, displays, posters, and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the alcoholic beverage commission and/or the sign provisions and restrictions of the underlying zoning district in which the licensee is located or the sign or advertising is proposed.

Sec. 8-117. - Use of solicitors by licensees prohibited.

No holder of a license shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises.

Sec. 8-118. - Regulation of retail sales.

- (1) ~~No retailer shall, directly or indirectly, operate more than one place of business for the sale of alcoholic beverages in the City of Franklin, Tennessee, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.~~ **No retailer shall hold more than fifty percent (50%) of the licenses authorized for issuance by the City of Franklin, Tennessee.**
- (2) No retailer shall sell, lend, or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend, or give away such beverage to any person accompanied by a person who is drunk.
- (3) No retailer shall sell, lend, or give away any alcoholic beverages to a person under ~~18~~**21** years of age.
- (4) No retailer shall sell, lend, or give away any alcoholic beverages between 11 o'clock P.M. on Saturday and 8 o'clock A.M. Monday through Saturday. The store may not be open to the general public except during regular hours.
- (5) No retailer shall sell, lend, or give away any alcoholic beverages on Christmas Day, Thanksgiving Day, Labor Day, New Year's Day, or the Fourth of July.
- (6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers, except for the purpose of conducting sales demonstrations as permitted by state law.

Sec. 8-119. - Consumption of alcoholic beverages on premises.

Restaurants ~~servicing a full course food menu or limited service restaurants~~ may allow the consumption of alcoholic beverages as defined in this chapter on premises and under the terms and conditions within this title **and as provided by Tennessee Code Annotated Title 57**. Consumption of alcoholic beverages may be permitted at outdoor cafes as defined by and regulated under the provisions in chapter 3 of this title. Restaurants may furnish set-ups for use in consumption of alcoholic beverages as long as they comply with the setup tax provisions of Tennessee Code Annotated, § 57-4-301. Provided,

however, that nothing in this section permits the sale of liquor by the drink except where the establishment meets ~~the private club~~ an exception under Tennessee Code Annotated, title 57, chapter 3.

Sec. 8-120. - Recorder authorized to examine books, etc., of licensees.

The city recorder or his agent is authorized to examine the books, papers and records of any licensee for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license.

Sec. 8-121. - Violations.

(a) Any violation of the terms of this chapter shall be punishable by a fine as specified in appendix A, comprehensive fees and penalties. In the discretion of the board of mayor and aldermen, any violation may be cause for certification of violation to the alcoholic beverage commission pursuant to section 8-104 of this chapter.

(b) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate, shall be a violation of this title. The city may refuse to issue a certificate if, upon investigation, the city finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business, or if the interest of any person in the operation of the business is not truly stated in the application, or in case of any fraud or false statements by the applicant pertaining to any matter relating to the operation of the business. All data, written statements, affidavits, evidence or other documents submitted in support of an application are a part of the application.

(c) If the provisions of this section are alleged to have been violated, the city may revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or to show cause why the certificate should not be revoked. Revocation of a certificate for a retail liquor store shall require a majority vote of the board of mayor and aldermen. The mayor may revoke a certificate for the sale of wine at a retail food store, provided that the applicant or licensee may appeal the revocation to the board of aldermen, which may reverse the mayor's action by majority vote.

Sec. 8-122. - Visible possession of unsealed containers on streets, etc., prohibited.

Visible possession of alcoholic beverages in unsealed containers upon any public street or within any governmental building or public park shall be a violation of this chapter.

Sec. 8-123. - Chapter does not apply to beer.

No provision of this chapter shall be considered or construed as in any way modifying, changing or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five percent or less, more specifically chapter 2 of this title.

Sec. 8-124. - Tax levied.

There is hereby levied on the privilege of selling at retail in the city alcoholic beverages for consumption on the premises the tax provided for in Tennessee Code Annotated, § 57-4-301, as it now exists or may from time to time be amended at the rates and in the manner prescribed by said state law, and the said tax shall hereafter be collected annually by the city.”

SECTION 2. Severability. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

SECTION 3. Repeal and Savings Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the City of Franklin prior to the effective date of this ordinance.

SECTION 4. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric Stuckey
City Administrator/Recorder

By: _____
Dr. Ken Moore
Mayor

Approved as to form by:

Kristen L. Corn
Assistant City Attorney

PASSED FIRST READING:

PASSED SECOND READING:

