

APPLICATION FOR BEER PERMIT

STATE OF TENNESSEE / CITY OF LEWISBURG

Application for (Check One):

_____ **On Premises permit** _____ **Off Premises Permit**

I hereby make application for a permit to sell beer or other beverages authorized to be sold under the provisions of Tennessee Code Annotated 57-5-101 ET.SEQ. and base my application upon the answers to the following questions:

1. Full name of applicant (owner) _____

Person _____ Firm _____ Corporation _____ Partnership _____ Joint-stock Co. _____

Syndicate _____ Association _____

2. List all persons, partnerships, firms, corporations, joint-stock companies, syndicates, or associations having at least 5% ownership interest in the business and give addresses of each (attach additional sheet, if needed).

3. What is your present home address? _____

4. Previous address(es) (within last 10 years) _____

5. Are you a U.S. Citizen? _____ Yes _____ No

6. Date of birth _____ Home telephone _____

Business Telephone _____

7. Under what name will this business operate? _____

8. Location of business by street address or other geographical description and phone number of the business _____

9. Specify the identify and address of the person to receive annual privilege tax notices and any other communication from the City of Lewisburg _____

10. Give name and address of property owner, if other than business owner

11. Will the permit be used to operate two (2) or more restaurants or other businesses under the same permit as permitted by Section 57-5-103 (a) (4) within the same building? Yes _____ No _____ If so, specify number _____. List the names of the restaurants or other businesses and describe their location (use additional sheet if necessary) _____

12. Give name, date of birth, and addresses of any manager other than applicant.

Name _____ D.O.B. _____

Address _____

13. Has any person having at least a 5% ownership interest, any of the managers listed in Question 11, or any other employee of the business, been convicted of any violation of the beer or alcoholic beverage laws or any crime (other than minor traffic violations) within the last ten (10) years? _____ If so, give particulars of each charge, court, and date convicted. _____

14. Has this owner or the owners organization had a beer permit revoked, suspended, or denied in the State of Tennessee? Yes _____ No _____
If so, specify where, when and why.

15. Give the name, relationship to applicant (if applicable) and address of the former beer permit holder at this location. _____

16. What is the name and address of church (or other place of worship) nearest to your business? _____

(The City of Lewisburg has adopted a rule forbidding the sale of beer and like beverages in areas which would cause congestion of traffic or would interfere with schools, churches and other places of public gathering).

17. What is the name and address of the school nearest to your business?

I am knowledgeable of the laws prohibiting the sale of beer to minors. I hereby certify that no person having at least a 5% ownership interest, nor any person to be employed in the distribution or sale of beer in my establishment has been convicted of any violation of the beer or alcoholic beverage laws or any crime involving moral turpitude within the past (10) years. I am also aware that I shall not be issued a permit or my permit shall be revoked if my business location causes traffic congestion or interferes with schools, churches, or other places of public gathering, or otherwise interferes with public health, safety and morals.

Signature of Applicant/Owner (or Authorized Corporate Officer)

Sworn to and subscribed before me this _____ day of _____, _____.

Notary at Large

My commission expires: _____

NOTICE: A non-refundable \$250 fee must accompany this application. If the application is approved, you are required to provide documentation of sales tax registration to the city within ten (10) days of approval. Any applicant making false statements in this application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years.

A privilege tax of \$100 is imposed on the business of selling, distributing, storing or manufacturing beer in this state effective January 1, 1994 and each successive January 1. Any holder of a beer permit issued after January 1, 1994 shall pay a pro rata portion of this annual tax when the permit is issued.

Approved _____

Board Members

Disapproved _____

Date Approved _____

CHAPTER 2

BEER¹

SECTION

- 8-201. Definitions.
- 8-202. Beer board established.
- 8-203. Meetings of the beer board.
- 8-204. Record of beer board proceedings to be kept.
- 8-205. Requirements for beer board quorum and action.
- 8-206. Powers and duties of the beer board.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits restricted to certain businesses.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Permit must be in name of person who owns business.
- 8-214. Permit to be posted.
- 8-215. Premises selling beer subject to inspection.
- 8-216. Revocation of beer permits.
- 8-217. Civil penalty in lieu of suspension.

8-201. Definitions. The following definitions are applicable to this chapter:

(1) "Beer" shall mean all beer or any other beverage with alcohol content of not more than five percent (5%) by weight.

(2) "Golf course" shall mean a public eighteen (18) hole golf course with clubhouse, pro shop and restaurant permitted to sell beer to be consumed on the premises.

(3) "Person" shall mean any citizen or legal alien of the United States, any partnership or association of persons all of whom are citizens or legal alien of the United States, and any corporation licensed to do business in the State of Tennessee.

(4) "Premises" shall be the interior of a building or structure including contiguous interior spaces which are not separated by a permanent solid wall from other portions of the building or structure under the same roof, and where applicable shall include the parking area adjacent to and servicing the premises

¹State 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).

and where applicable shall include a golf course. (Ord. #97-14, Sept. 1997, modified, as amended by Ord. #09-11, Dec. 2009)

8-202. Beer board established. There is hereby established a beer board ("board") to be composed of three (3) members appointed by the mayor, each of whom shall serve until his successor is appointed. The mayor shall serve as ex officio member of the board but shall have no vote except in the case of a tie. All members of the board shall be residents of the city and shall receive such compensation as is set from time to time by resolution of the city council. An annual organizational meeting of the board shall be held in July of each year and from its membership shall be elected a chairman and secretary. (Ord. #97-14, Sept. 1997)

8-203. Meetings of the beer board. All meetings of the board shall be open to the public. The board shall hold regular meetings in the city administration building at such times as it shall prescribe. When there is business to come before the board a special meeting may be called either by the chairman or by a majority of the members. Notice of the annual, regular or special meetings shall be given to each member of the board, parties in interest and the general public. (Ord. #97-14, Sept. 1997)

8-204. Record of beer board proceedings to be kept. The chairman shall see that a record of the proceedings of all meetings of the board is kept. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of beer permit issued by the board. (Ord. #97-14, Sept. 1997)

8-205. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #97-14, Sept. 1997)

8-206. Powers and duties of the beer board. The board shall have the power and it is hereby directed to regulate the selling and storing for sale of beer within the City of Lewisburg in accordance with the provisions of this chapter. (Ord. #97-14, Sept. 1997)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell or store for sale beer without making application

to and obtaining a permit from the board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Lewisburg. 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. (Ord. #97-14, Sept. 1997, modified)

8-208. Privilege tax. There is hereby imposed on the business of selling beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company syndicate, partnership or association engaged in the sale of beer shall remit the tax on January 1, to the City of Lewisburg, 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. (Ord. #97-14, Sept. 1997, modified)

*** **8-209. Beer permits restricted to certain businesses.** The board shall only issue or renew permits:

(1) To sell at retail in packages for off premises consumption and where the proceeds for the sale of beer do not exceed twenty percent (20%) of the total proceeds of the business operated at, on or in the premises; or

(2) To a local chapter of a nationally organized and recognized club or lodge wherein beer may be sold at retail to its members to be consumed on the premises of the club or lodge; or

(3) To sell at retail to be consumed on the premises subject to the limitations and regulations of this chapter and the following limitations and regulations:

(a)(i) Meals must be prepared and served at the premises and such premises must have adequate equipment to prepare and serve meals at least two (2) times per day, six (6) days per week, and unless a motel, hotel, golf course, or bowling alley (minimum twelve (12) lanes), the serving of meals shall be the principal business conducted on the premises.

(ii) A special permit may be issued to sell at retail to be consumed on the premises where meals will not be prepared and served two (2) times per day six (6) days per week provided:

(A) Applicant has operated a restaurant at the premises for 12 consecutive and uninterrupted months immediately preceding filing the application;

(B) Preparing and serving meals at the premises is the principal business; and

(iii) A special permit may be issued to sell at retail to be

consumed on premises where meals will not be served six (6) days a week provided the applicant has an existing on premises permit and has been in business for four (4) years or more. The business shall be open a minimum of two (2) days a week and serve at least two (2) meals per day when open.

(C) Business will be open only days and hours stated in application which shall be the same as business was open and serving meals prior to filing the applications.

(b) All state and local health and sanitation requirements relative to the equipment for handling food and cleaning dishes, drinking glasses and other utensils must be strictly complied with.

(c) Premises must have a seating capacity for not less than 40 persons at tables and chairs, not more than 10 counter seats for each 40 seats at tables and chairs.

(d) Deleted. This subsection was deleted by Ord. #02-05, Aug. 2002.

(e) No signs or displays shall be on the exterior of the premises or signs and displays on the interior of the premises visible from the exterior which indicate or advertise that beer may be purchased at the premises.

(f) Within 30 minutes after the time each day when sale of beer becomes unlawful, any person holding an on-premises permit shall remove or cause to be removed from all tables, counters and other places where beer is served or consumed all glasses and other containers with beer within therein and except for said 30 minute period he shall keep said containers properly stored during all hours when the sale of beer on the premises is unlawful.

(g) All premises shall be of such design that the interior can easily be seen from the exterior and no curtains, drapes, shades, blinds, screens or other thing shall be used to hinder a clear and unobstructed view of the interior of the premises from the exterior and such a design shall be approved by the beer board.

(h) All premises shall have adequate and separate toilet facilities for men and women. The toilet facilities shall be so arranged and of such construction that they can be maintained and kept in a clean and sanitary condition and state of repair.

(i) Premises shall have at least one (1) entrance which shall not be locked while beer is sold or consumed on the premises by any person and one (1) or more emergency exit(s) which shall be easily opened from inside the premises and have an obstructed pass through.

(j) Deleted. This subsection was deleted by Ord. #02-01, May 2002.

(k) Where consumption is permitted on a golf course beer will be purchased either in cans at the restaurant or from the beverage cart.

(4) Dual permits to sell at retail in packages for off premises consumption and to be consumed on the premises may be issued provided the applicant satisfies requirements of both permits. (Ord. #97-14, Sept. 1997, as amended by Ord. #00-17, Feb. 2001, Ord. #02-01, May 2002, Ord. #02-05, Aug. 2002, and Ord. #08-21, Jan. 2009)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued 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. (Ord. #97-14, Sept. 1997)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (Ord. #97-14, Sept. 1997)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Employing any person under the age of eighteen (18) years in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off premises consumption only.)

(3) ~~Deleted.~~ This subsection was deleted by Ord. #02-05, Aug. 2002.

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

(5) Make or allow any sale of beer to any person under the age of twenty-one (21) years of age. The holder of the beer permit shall be strictly accountable for the violation of this provisions and the burden of ascertaining age of such persons shall be upon the holder and operator, or their servants, of such place of business.

(6) Allow any person under nineteen (19) years of age to loiter in or about the place of business.

(7) Make or allow any sale or gift 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 the premises.

(9) Serve, sale, give or allow the consumption on the premises of any alcoholic beverage with an alcoholic content of more than 5% by weight.

(10) The playing of pool or billiards on the premises.

(11) Permit the consumption of beer on any parking lot which services and/or is adjacent to the premises which the permit holder has any interest in or control over. (Ord. #97-14, Sept. 1997, modified, as amended by Ord. #01-03, May 2001, and Ord. #02-05, Aug. 2002)

8-213. Permit must be in name of person who owns business. The permit issued by the board shall be in the name of the person owning the business rather than the manager, operator or employee of the owner. (Ord. #97-14, Sept. 1997)

8-214. Permit to be posted. Permits issued by the board shall be posted in a conspicuous place inside the premises. (Ord. #97-14, Sept. 1997)

8-215. Premises selling beer subject to inspection. All premises selling beer are subject to inspection by board members and city police during any hours the premises are open. (Ord. #97-14, Sept. 1997)

8-216. Revocation of beer permits. The board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter or any of the laws of the State of Tennessee in regard to selling and storing for sale beer. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all known parties in interest, board members and the general public. Revocation proceedings may be initiated by the police chief, policeman, city attorney or by any member of the city council or board. (Ord. #97-14, Sept. 1997, modified)

8-217. Civil penalty in lieu of suspension. The board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 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 supervision by a permit holder shall be an admission by the permit holder of the violation so charged and shall be paid to the exclusion of any other penalty the city may impose. (Ord. #97-14, Sept. 1997, modified)

AN ORDINANCE AMENDING TITLE 8, CHAPTER 1, SECTION 8.105 (1) AND
CHAPTER 2, SECTION 8.209 (a) (i) PERTAINING TO ALCOHOLIC BEVERAGES

BE IT ORDAINED BY THE CITY OF LEWISBURG THAT, Title 8, Chapter 1, Section 8.105 be amended by the following:

Delete Section 8.105. (1) Location and size restrictions on retail businesses which reads as follows:

(1) No certificate shall be granted the operators of a retail store for the sale of alcoholic beverages except on premises zoned "central business", "intermediate business," or "industrial" within the provisions of the zoning ordinance of the City of Lewisburg. No certificate shall be issued for the operation of any such retail store to be located in closer proximity to any school, public or private, or any church, than 500 feet measured from the retail store the aforesaid institutions or facilities by way of the shortest distance and straight line between same.

Add Section 8.105. Location and size restrictions on retail businesses to read as follows:

(1) No certificate shall be granted to the operators of a retail store for the sale of alcoholic beverages except on premises zoned "central business," "intermediate business," or "industrial" within the provisions of the zoning ordinance of the City of Lewisburg. No certificate shall be issued for the operation of any such retail store to be located in closer proximity to any school, public or private, or any church, than 500 feet measured from the retail store the aforesaid institutions or facilities by way of the shortest distance and straight line between same. Within the "central business" district, restaurants and food service establishments meeting the criteria in 8-209 (3) (a) (i) may be located within 50 feet of the aforesaid institutions.

Delete under Section 8-209. Beer permits restricted to certain businesses 3 (a) (i), (ii) (A) & (B) (iii) and (c) which reads as follows:

- (a)(i) Meals must be prepared and served at the premises and such premises must have adequate equipment to prepare and serve meals at least two (2) times per day, six (6) days per week, and unless a motel, hotel, golf course, or bowling alley (minimum twelve (12) lanes), the serving of meals shall be the principal business conducted on the premises.
- (ii) A special permit may be issued to sell at retail to be consumed on the premises per week provided:
 - (A) Applicant has operated a restaurant at the premises for 12 consecutive and uninterrupted months immediately preceding filing the application;
 - (B) Preparing and serving meals at the premises is the principal business; and
- (iii) A special permit may be issued to sell at retail to be consumed on premises where meals will not be served six (6) days a week provided the applicant has an existing on premises permit and has been in business for four (4) years or more. The business shall be open a minimum of two (2) days a week and serve at least two (2) meals per day when open.
- (C) Premises must have a seating capacity for not less than 40 persons at tables and chairs, not more than 10 counter seats for each 40 seats at tables and chairs.

Add under 3 (a)(i), (ii) of Section 8-209. Beer permits restricted to certain businesses the following:

- (a)(i) Permits shall be allowed to restaurants and eating establishments meeting all other criteria of this code where the serving of meals shall be the principal business conducted on the premises so long as no more than fifty (50) percent of revenues derive from alcohol sales.
- (ii) A special permit may be issued to sell at retail to be consumed on the premises for a hotel, motel, golf course, or bowling alley containing a minimum of twelve (12) lanes.

Passed first reading this 17 day of September, 2012.

Brenda M. Brewer
CITY RECORDER

Barbara Woods
MAYOR

Passed second reading this 9 day of October, 2012.

Brenda M. Brewer
CITY RECORDER

Barbara Woods
MAYOR

Passed third and final reading this 16 day of November, 2012.

Brenda M. Brewer
CITY RECORDER

Barbara Woods
MAYOR