



CITY OF ELIZABETHTON
Department of Finance/City Clerk
Beer Permit Application
Requirements
For Permanent On/Off Premises Permits

1. You must have an Occupancy Permit, a Fire Marshal Inspection, a Land Survey, and a Backflow Preventer Inspection (contact information for inspect appointments are listed on page 2) and a current Business License and also verification that all taxes owed to the City on the business are paid. All necessary paperwork received for this purpose must be submitted with the beer permit application along with a \$250.00 non-refundable application fee. (If you do not have a business license, you can obtain an application from <http://www.cityofelizabethton.org/government/forms>)
2. Contact a local Tennessee Registered Land Surveyor to perform a survey of property indicating the distance from the nearest school, church and public gathering place. (See attached Ordinance 53-25 effective December 24, 2017) (NOTE: Temporary permits can be issued if the application is for an existing business that already has a beer permit and application requirements have been met. Temporary permits will expire on the day of the Beverage Board meeting.)
3. Contact the fingerprint registration company, Identogo by MorphoTrust USA to schedule an appointment by phone 1-855-226-2937 or register online at www.identogo.com. Payment by credit or debit card is accepted when you call to register. The City of Elizabethton's ORI Number is TN920750Z. (Please see next page for specific online registration instructions). You may choose the location most convenient to do the fingerprints, which will be electronically and submitted to the Tennessee Bureau of Investigation (TBI). The applicant cost for having fingerprints done is \$37.15. Cash and Checks are not permitted. The City of Elizabethton will receive the results of the fingerprint submission from the TBI website which is checked for TBI and FBI.
4. Mail or bring the completed beer permit application including the Occupancy Permit, Fire Marshal Inspection Report, Back Flow Preventer Inspection, Survey, Business License and application fee to the City Manager's office (2nd Floor, Suite 200) at City Hall, 136 S. Sycamore Street, Elizabethton, TN 37643. **THE APPLICATION MUST BE RECEIVED AT LEAST 15 DAYS PRIOR TO THE NEXT CITY COUNCIL MEETING** in order for adequate review and approval by the City Attorney before the next regularly scheduled city council meeting. Monthly City Council meetings are held the second Thursday at 6:00 p.m. at which time there will be a beverage board meeting held to consider the application. You will be notified by the City Clerk's office of the pending approval by the City Attorney and the date and time of the meeting. You must appear in person before the beverage board.
5. Upon approval, your permit will be available from the City Clerk on the next business day after the beverage board meeting. At this time, new permit holders will be required to pay a prorated privilege tax determined by the City Clerk's office for the remaining amount of time of the current calendar year. (This permit is permanent unless the business owner's change, move or are no longer employed by the business. If the business closes, the permit must be surrendered to the City Clerk's Office.)
6. Sales Tax Registration documentation and a copy of the Blanket Certificate of Resale are due at the City Clerk's Office within 10 days following the permit's approval.

Annual Beer Privilege Tax:

- \$100.00 annual privilege tax is due January 1st of each year. This tax will be prorated from the number of days starting with the approval date through December 31st for new permits issued.
- Invoices are to be mailed at least 30 days prior to January 1.
- Delinquent businesses will be notified by certified mail February 1.
- The permit will be voided for unpaid annual taxes if they are not paid 10 days after receiving the delinquent notice.

Contact Information of City Staff for Permit Process:

Beer Permit Application Questions:

(423) 542-1516 - Jennifer Arnold, Deputy City Clerk / jarnold@cityofelizabethton.org

(423) 542-1504 – Preston Cobb, City Clerk / Finance Director / pcobb@cityofelizabethton.org

**Please contact the individuals below regarding inspections to obtain the following permits:
Occupancy Permit, Fire Inspection and Backflow Preventer Inspection:**

1. Occupancy Permit – Freda Wagner, Building Dept. Adm. Assistant to Steve Donnelly -

{(423) 542-1503 / fwagner@cityofelizabethton.org

Steve Donnelly, Chief Building Inspector (423) 547-6234 / sdonnelly@cityofelizabethton.org

2. Fire Inspection - Jeremiah Tolley, Fire Marshall - (423) 547-6391 Office or by email:

jtolley@cityofelizabethton.org

3. BackFlow Preventer Inspection — Cody Eggers, Cross Connection Coordinator –

(423) 895-0811 (cell) or 547-6300 (water dept) or by email:

ceggers@cityofelizabethton.org

Once inspections are completed for business license please see the contact below, once you have a business license please have a copy of each permit and a copy of the business license included with the beer permit application:

4. Business License – Jennifer Murphy, Finance Office Manager - (423) 542-1518 / email:

jmurphy@cityofelizabethton.org

****Please include copies of each permit and a copy of the business license with beer permit application**



**CITY OF ELIZABETHTON
136 S. SYCAMORE ST.
ELIZABETHTON, TENNESSEE 37643**

ONLINE FINGERPRINT REGISTRATION PROCESS

BEER PERMIT APPLICATION

1. To start the registration process, please go to the registration website - identogo.com / Choose Locations / **Find an Identogo Center** (box in upper right corner of screen) – Enter **37643** and Enter / Choose Identogo State Enrollment Agency to choose the location to have your fingerprints done and Click on **Schedule Appointment** (bottom right corner) unless you are not local to Elizabethton, then choose the most convenient location.
2. Next Screen: Scroll down to **Enrollment Services Options** – choose **Digital Fingerprinting**
3. Next Screen: **Fingerprinting & Enrollment Services** – For New Appointments click on **Schedule a New Appointment**
4. Next Screen: **service code:** Choose – **Don't know your Service Code**, click on drop down box for agency name and choose **Other** (last option in drop down box) and choose **Go>**

Next drop down box will be **applicant type** – choose **Beer Permits** & choose **Go>**

Next drop down box will be **ORI number** – type the City of Elizabethton's **ORI number** which is **TN920750Z** and choose **Go>**
5. Next Screen: Question: **You have selected to be fingerprinted for City of Elizabethton.** Is this correct? choose **Yes**
6. Next Screen: Fingerprint-Based Criminal History Record Request Authorization and Notification Form – Read and check the **I Agree** box to continue registration and choose **Go>**
7. Next Screen: Will ask for a zip code to determine the closest fingerprinting location: enter **37643** and choose **Go>**
8. Next Screen: Listing of all local Commercial Centers (CC) in Tennessee. Choose the location most convenient.

There will be a calendar with daily schedule dates - click on **Schedule** on the day you want to have fingerprints done. A drop down box of available times will appear to choose a time on that day. Choose a time then click on **Continue**.

9. Next Screen: **A Applicant demographic information** – Choose **Continue** then enter name, address, contact information, demographic data, employer info, etc. – please complete necessary information and choose **SUBMIT** – all information entered will appear for review. Please review then choose preference of payment and choose **Go**.

**Effective June 1, 2022: The fingerprinting fee is \$39.15 (TBI memo dated May 9, 2022)

**Effective October 1, 2022 the fingerprinting fee amount changes to \$37.15 (TBI memo dated July 8, 2022)

10. Next Screen: Registration information – you may print off for your records if you would like – You are now registered.

Please notate the day & time of your appointment and contact the City Clerk's office once the fingerprints have been done at 423-542-1516 or by email to:

Jennifer Arnold, Deputy City Clerk at jarnold@cityofelizabethton.org

and/or

Preston Cobb at pcobb@cityofelizabethton.org

11. The City Clerk's office will retrieve and print the fingerprint results from the TBI website to include with the beer permit application.



NOTICE

BEER PERMIT HOLDERS

ANNUAL PRIVILEGE TAX IS DUE JANUARY 1

An annual tax on the privilege of selling, distributing, storing, or manufacturing beer was levied by STATE OF TENNESSEE public Chapter 297 of the Acts of 1993. All businesses with a beer permit located inside the incorporated limits of any city or town in Tennessee are required to remit to the city clerk in which the business is located the full amount of tax due.

The amount of the tax is ONE HUNDRED DOLLARS (\$100.00). The privilege tax is due and payable by invoice by January 1 of each and every year for active permit holders. The responsible party on the invoice will be based on the information answered on question #8 of the beer permit application on file.

If any of the information should change or need to be updated during the course of the active permit, it will be the responsibility of the applicant or designee to contact the City Clerk's office.

New permits that are approved within the calendar year shall be required to pay a pro-rated amount until the next calendar year is invoiced.

Payment for invoices may be paid in the Finance Department at City Hall, 136 S. Sycamore Street, Elizabethton, TN or mailed to the attention of the City Clerk at the City of Elizabethton, 136 S. Sycamore Street, Elizabethton, TN, 37643.

Payments by phone may be made by contacting Jennifer Arnold, Deputy City Clerk at 423-542-1516 / jarnold@cityofelizabethton.org or Preston T. Cobb, City Clerk at 423-542-1504 / prcobb@cityofelizabethton.org.

FAILURE TO PAY THIS TAX BY JANUARY 1 OF EACH YEAR WILL RESULT IN VOIDING THE BEER PERMIT AS REQUIRED BY CHAPTER 297 OF THE PUBLIC ACTS OF 1993, STATE OF TENNESSEE.

Privacy Act Statement

This privacy act statement is located on the back of the FD-258 fingerprint card.

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

As of 03/30/2018

City of Elizabethton Privacy Act Requirements

Notifications to Applicants required to have a National Fingerprint Record-Check

Authorized governmental agencies that conduct a national fingerprint-based criminal history record check on an applicant for a noncriminal justice purpose are obligated to ensure the applicant is provided certain notices and other information. This document complies with such requirements.

The applicant is hereby notified:

- Your fingerprints will be used to check your criminal history records.
- You have received, and your signature below acknowledges, the attached *Privacy Act Statement*, which is dated 3/30/2018.
- You have the opportunity, within 10 days, to challenge in writing the accuracy of the information in the record.
 - o Corrections to the record must be made within 60 days of the date of this notification, and you will not be denied a license based on information in the record until such 60 days has passed, unless you decline to make corrections.
 - o Procedures for obtaining a change, correction, or update of a criminal history record are set forth in 28 CFR 16.34.
- The City of Elizabethton will use the record solely for the purpose of _____ (specify liquor license, beer license, taxi cab license, dispatcher, etc.).
- The City of Elizabethton will not disseminate the record outside the receiving department.

As the undersigned I have read and understand the notifications described above. I have also received a copy of the *Privacy Act Statement*.

Signature of Applicant

Date



CITY OF ELIZABETHTON
136 S. SYCAMORE ST.
ELIZABETHTON, TN 37643

BEER PERMIT BACKGROUND CHECK

I, _____ give permission to the local enforcement agencies to check for and make available to the inquiring agency any and all information concerning any police record on file regarding myself.

NAME				SOCIAL SEC. #		
ADDRESS				DATE OF BIRTH		
CITY			STATE		ZIP CODE	

SIGNATURE _____

DATE _____

LIST LAST 3 PVIOUS ADDRESSES

ADDRESS	CITY	STATE	ZIP CODE

BUSINESS NAME			CONTACT NAME		
ADDRESS			CONTACT NUMBER		
CITY			STATE		ZIP CODE

RECORD CHECK	
NO	YES

CHIEF OF POLICE _____

RECORDS CLERK _____

APPROVED BY BOARD		DATE	INT.
YES	NO		



CITY OF ELIZABETHTON

Department of Finance

Beer Permit Application – PERMIT Permits

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

1. Name of Applicant (Owner):— _____

☐ D Person

☐ D Firm

☐ D Corporation

☐ D Joint-Stock Co.

☐ D Syndicate

☐ D Association

Application for (CHECK ONE):

☐ DON PREMISES PERMIT for a

☐ O OFF PREMISES PERMIT for a

☐ O ON AND OFF PREMISES for a

Type of Business (CHECK ONE):

☐ RESTAURANT ☐ CLUB ☐ HOTEL

☐ GROCERY ☐ CONVENIENCE STORE

☐ RESTAURANT ☐ CLUB ☐ HOTEL

RESTAURANT SEATING CAPACITY: _____

FOR BEVERAGE BOARD USE ONLY – DO NOT WRITE IN THIS BOX

Map No.: _____ Parcel No.: _____ Zoned: _____

☐ D Current Signed w/Seal Survey received with Application

Distance from Nearest School: _____ feet

Distance from Nearest Church: _____ feet

Application Received Date: _____ / _____ / _____ by _____

Application to Attorney's Office Date: _____ / _____ / _____ by _____

Temporary Permit Issued Date: _____ / _____ / _____ by _____ No. _____

Beverage Board Approved Date: _____ / _____ / _____

Final Permit Issued Date: _____ / _____ / _____ by _____ No. _____

State Liquor Sales Permit **No. :** _____ on file _____

2. Under what name will the business operate? _____

3. List all persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a 5% ownership interest in the business (attach additional sheet, if needed).

4. Present home address:

Address	City	State	Zip Code
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5. Previous address(es) within the last 10 years:

Address	City	State	Zip Code
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Address	City	State	Zip Code
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Address	City	State	Zip Code
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6. Date of Birth: _____ / _____ / _____ Home Telephone Number: _____

Business Telephone Number: _____

7. Location of business by street address or other geographical description:

8. Specify the identity and address of the person to receive annual privilege tax notices and any other communication from the City:

9. Give the name and address if the property owner is different than the business owner:

10. Will the permit be used to operate two or more restaurants or other businesses under the same permit as permitted by Section 57-5-103(a)(4) within the same building and owned by the same person? ☐ Yes ☐ No

If yes, specify the number: _____

List the names of the restaurants or other businesses and describe their location (use additional sheet if necessary):

11. Manager's other than applicant:

Name	DOB	Address
------	-----	---------

Name	DOB	Address
------	-----	---------

Name	DOB	Address
------	-----	---------

Please specify the primary local contact person for the business:

Name	Work Phone	HomePhone
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12. 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? D Yes D No

If yes, give particulars of each charge, court and date convicted:

13. Has this owner or the owners organization had a beer permit revoked, suspended, or denied in the State of Tennessee?

D Yes D No

If yes, specify where, when, and why: _____

14. Give the name, relationship to applicant (if applicable) and address of the former beer permittee at this location.

(The City of Elizabethton has adopted a rule forbidding the sale, storage and manufacturing of beer and like beverages within 100 feet of schools, churches and other places of public gathering)

15. What is the name, address, and license number of the Tennessee registered land surveyor providing the required survey for this application? (Please include and attach current survey)

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

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

18. What is the address of the nearest public gathering place to your business other than schools and churches?

19 Does any brewer, manufacturer, distributor, or warehouseman of legalized beer have any interest in the business, financially or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail?

D Yes D No

If yes, please **identify**: _____

GENERAL INFORMATION ON BEER SALES PERMIT REQUIREMENTS

Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate, or association.

A permit is only for a single location and is valid for all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located.

Where an owner operates two or more restaurants or other businesses within the same building, the owner may, in his or her discretion, operate some or all of such businesses under the same permit.

A permit is valid only for the business of the owner named in the permit.

A permit holder must return a permit to the City Clerk's Office within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name. A change in ownership occurs for a corporate owner when at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

NOTICE: A non-refundable \$250 fee must accompany this application. The application shall be submitted to the Secretary of the Beverage Board not less than fifteen (15) days prior to the next meeting of the City Council in order to allow a meeting of the Beverage Board and provide proper notice as required by law of such meeting. The applicant shall appear in person before the Beverage Board.

If the application is approved you are required to provide documentation of sales tax registration to the city within ten days of approval. Any applicant making false statement in this application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten 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.

CONSTRAINTS ON ISSUANCE OF PERMITS

In accordance with §8-208 – 8-211 of the Municipal Code, all permits for the sale of beer in the City of Elizabethton shall be Issued in the discretion of the Beverage Board subject, but not limited, to certain constraints and restriction summarized in this application. Applicants are urged to review the Municipal Code, Title 8, Chapter 2, in its entirety, which pertains to beer. The following is a summary of only a few provisions covered in the Code.

- On premise permits shall be issued only to restaurants, clubs, and hotels, having a capacity for not less than 75 persons and it shall be required that the primary purpose of the business is the sale of food prepared and consumed on site.
- Off premise permits shall be issued only to establishments operating as a grocery or convenience store where the primary business is the sale of food, merchandise, household items, health and beauty aids deriving more than fifty percent (50%) of gross sales from such items. A convenience store, in addition to food merchandise, may also be involved in the sale of gasoline, but shall have an area for the sale of food merchandise of at least one thousand (1,000) square feet.

- No permit for the sale of beer (either on-premise or off-premise) shall be issued to any business within one hundred (100) feet of any established church or school building. Such distance shall be substantiated by a survey submitted by the applicant.
- It shall be unlawful to sell beer between the hours of 3:00 am and 8:00 am, Monday through Saturday, and between the hours of 3:00 am until 10:00 am on Sunday.

APPLICANT'S CERTIFICATION

I certify that I am knowledgeable of the laws prohibiting the sale of beer to minors. I acknowledge receipt of the city's Municipal Code, Title 8, Chapter 2, in its entirety, which pertains to beer. I have read that Ordinance and understand that responsibilities I assume for myself and my business in compliance with the city code on sale of beer. 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(s) cause(s) or otherwise interferes with public health, safety and morals. I will not engage in sale, storage, manufacture, or distribution of beer except at the place or places for which the license or permit is issued. I will not make, permit or allow a sale to any person under the legal age to purchase beer as set forth by state statute or to any person who is intoxicated. I will not permit minors or disorderly or disreputable persons, or persons heretofore connected with the violation of liquor laws to loiter around the place of business. No minor will be employed in the direct sale, storage, manufacture, or distribution of beer. I agree to comply with all the laws of the United States, and the State of Tennessee, and all ordinances of the City of Elizabethton. I further certify that all property taxes, both real and personal, have been paid on this business location AND that I have all business licenses and privilege permits current and up to date for the operation of the establishment. I am willing to register thru the registration company, IdentityGO and schedule an appointment to be fingerprinted at the local UPS Store on behalf of the Elizabethton Police Department and the City of Elizabethton and be investigated by municipal, county, state, and federal law enforcement agencies concerning my background and record. I certify that all facts therein stated are true.

Signature of Applicant/Owner
(or Authorized Corporate Officer)

(Seal)

SWORN and Subscribed to before me on this the _____ day of _____ 20_____

Notary Public

My Commission Expires: _____ day of _____ 20_____

I, _____ hereby certify as the authorized agent of the applicant/owner that the forgoing application for a beer permit for the City of Elizabethton, Tennessee meets all the requirements of the beverage ordinance as set forth in Chapter 1 and 2, Title 8 of the Elizabethton Municipal Code. The applicant/owner further understands that if this certification is made in error, that the beer permit is subject to revocation and/or a possible fine imposed by the Beverage Board of the City of Elizabethton, Tennessee. In the event any legal action is required to be taken by the City of Elizabethton, Tennessee with regard to the application for an issuance of this permit, the applicant/owner agrees to indemnify and hold the City of Elizabethton, Tennessee harmless for any costs incurred including court costs and reasonable attorney fees.

Agent

(Seal)

SWORN and Subscribed to before me on this the _____ day of _____, 20_____

Notary Public

My Commission Expires: _____ day of _____ 20_____

I, _____ secretary to the Beverage Board and City Clerk for the City of Elizabethton, Tennessee have reviewed the foregoing application for a beer permit and based on the information provided therein, I am of the opinion that the application meets the requirements of the beverage ordinances of the City of Elizabethton, Tennessee.

Secretary/City Clerk

I, _____ attorney for the Beverage Board and City Attorney for the City of Elizabethton, Tennessee have reviewed the foregoing application for a beer permit and based on the information provided therein, I am of the opinion that the application meets the requirements of the beverage ordinance of the City of Elizabethton, Tennessee.

City Attorney

Revised October 2010.

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, Title 57, Chapter 4, shall be in accordance with the Rules and Regulation of the Tennessee Alcoholic Beverage Commission. (Ord. #41-4, April 2005)

CHAPTER 2 – BEER²

SECTION

- 8-201.** Beverage board; creation; membership; authority to issue, revoke, and suspend beer permits; organization and procedures.
- 8-202.** Permit required to sell, store, distribute, or manufacture beer; application for permit to be sworn to, etc.
- 8-203.** Contents and filing requirements of application for permit.
- 8-204.** No permits to be issued to anyone who has been convicted of any violation of intoxicating beverage laws within the last ten (10) years.
- 8-205.** City clerk to issue permit upon approval of board only to applicants of an existing business and payment of required fees.
- 8-206.** Payment of fees; display of permits; sales by distributors, etc.; permits not transferable; permit required for each location; limitation on number of permits for each person.
- 8-207.** Types of retail permits.
- 8-208.** Constraints on issuance of permits.
- 8-209.** Days and hours of sale regulated.
- 8-210.** Distributors, etc. to be licensed by state, to comply with zoning laws, and to sell only to valid permit holders.
- 8-211.** Sign restrictions.
- 8-212.** Sales to persons under the legal age to purchase beer as set by state statute is prohibited.
- 8-213.** Permit holders not to allow loitering or sales to intoxicated persons.
- 8-214.** DELETED
- 8-215.** Certain non-conforming permittees allowed to continue.
- 8-216.** Retailers or public conveyances not to deliver beer.
- 8-217.** Privilege tax.
- 8-218.** Premises constituting non-conforming uses not to be licensed.
- 8-219.** Police inspections.
- 8-220.** Credit sales to retailers prohibited.
- 8-221.** No adjustments for shortages, etc., to be made by wholesalers except at time of delivery.
- 8-222.** No gifts or price reductions by wholesalers.
- 8-223.** All sales to be within licensed premises.
- 8-224.** Violations – Responsible Vendor and All Other Vendors

8-201. Beverage board; creation; membership; authority to issue, revoke, and suspend beer permits; organization and procedures. There is hereby created a board, which shall be known and designated as the "Beverage Board of the City of Elizabethton," hereinafter referred to in this chapter as the "board." Such board shall be composed of the seven (7) members of the city council.

It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store more than two cases, distribute, and sell beer and other beverages of an alcoholic content of not in excess of five per centum by weight, hereinafter referred to as beer, to the persons and in the manner provided in this chapter.

It is hereby declared that the sale, storage, manufacture, and distribution of beer in the city is a privilege, and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture, or distribute beer in the city, including the sole right to determine the suitability and approve the general appearance of the proposed structure.

The board is empowered to elect its own chairman and other officers, to make its own regulations with respect to meetings or hearings, and may deny the issuance of any permit or license whenever it determines that such issuance would be detrimental to public health, safety, or morals. The board may likewise suspend or revoke the permit and license of any licensee who violates any of the laws of the United States, the State of Tennessee, or the City of Elizabethton, or whenever it shall satisfactorily appear that the premises or business of any permittee or licensee is being maintained and operated in such manner as to be detrimental to public health, safety, or morals.

² 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).

Where a permit or license is revoked, no new license or permit shall be issued to such permittee nor issued to any other applicant to permit the sale, storage, manufacture, or distribution of beer on the same premises until after the expiration of one year from the date said revocation becomes final and effective. (1982 Code, § 2-201)

8-202. Permit required to sell, store, distribute, or manufacture beer; application for permit to be sworn to, etc.

- (1) It shall be unlawful for any person to sell, store more than two cases, distribute, or manufacture beer within the city without having first obtained a permit and license as provided in this chapter.
- (2) Before any person shall be authorized to sell, store more than two cases, distribute, or manufacture beer, he shall make application to the board, upon a form prescribed by it, for a permit to do so.
- (3) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate, or association.
- (4) The permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to another owner and if the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.
- (5) The applicant must agree in his application to comply with all the laws of the United States, and of the State of Tennessee, and all ordinances of the City of Elizabethton, and said application shall be supported by an affidavit or oath that the facts therein stated are true. (Ord. #29-22, Sept. 1993)

8-203. Contents and filing requirements of application for permit. The application shall contain the following:

- (1) The name and address of the applicant.
- (2) The name of the applicant's business;
- (3) The location of applicant's business by street or other geographical description to permit an accurate determination of conformity with the requirements of this chapter;
- (4) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption, or for off-premises consumption, or both of the foregoing, any change in the type of permit shall require approval of the beverage board;
- (5) A statement that the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license or permit was issued to such applicant;
- (6) That no sale will be made to any person under the legal age to purchase beer as set forth by state statute; that the applicant will not permit minors or disorderly or disreputable persons, or persons heretofore connected with the violation of the liquor laws to loiter around the place of business; that no minor shall be employed in the direct sale, storage, manufacture, or distribution of beer;
- (7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked;
- (8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has been convicted of any violation of the law against prohibition, sale, manufacture, storage, distribution, usage, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten years preceding the filing of such application;
- (9) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least five percent (5%) ownership interest in the applicant;
- (10) Identity and address of a representative to receive annual tax notices and any other communication from the beverage board or its representative;
- (11) That no brewer, manufacturer, distributor, or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on;
- (12) A statement that the applicant is willing to be fingerprinted by the police department of the City of Elizabethton and is willing to be investigated by municipal, county, state, and federal law enforcement agencies concerning the applicant's background and record;
- (13) An oath or affidavit by the applicant that the facts set forth in the application are true;
- (14) Any applicant making false statements in the application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years;
- (15) The application shall be submitted to the secretary of the beverage board not less than fifteen (15) days prior to the next meeting of the city council in order to allow a meeting of the beverage board and provide proper notice as required by law of such meeting. The applicant shall appear in person before the beverage board. (Ord. #29-22, Sept. 1993)

8-204. No permits to be issued to anyone who has been convicted of any violation of intoxicating beverage laws within the last ten (10) years. No permit shall be issued except persons of good moral character who have not been convicted of any violations of the laws against manufacturing, selling, transporting, storing, distributing, illegally using or possessing intoxicating liquors or of selling or possessing beer illegally or of any crime involving moral turpitude, within (10)

years of the date of application; nor shall any permit be issued to any firm, corporation, syndicate, joint stock company, or association, who have officers, stockholders, or employees who have had such convictions.

A permit holder must return a permit to the beverage board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on the termination of the business, change in ownership, relocation of the business or change of the business's name. Failure to notify the city clerk of any of these changes shall be grounds to cite permit holder to the beverage board to show cause why the permit should not be suspended or revoked. (Ord. #29-22, Sept. 1993)

8-205. City clerk to issue permit upon approval of board only to applicants of an existing business and payment of required fees. Permits shall be approved or disapproved by the board only to applicants operating an existing business and if approved, a license shall be issued by the city clerk for the City of Elizabethton, upon proof by the applicant that all permits have been obtained and that all required fees and privilege taxes have been paid and that the applicant has met the requirements of this chapter and the laws of the State of Tennessee and the United States of America. (Ord. #29-22, Sept. 1993)

8-206. Payment of fees; display of permits; sales by distributors, etc.; permits not transferable; permit required for each location; limitation on number of permits for each person. All permit fees shall be paid annually in advance and shall not be subject to refund in whole or in part. All permit holders shall display and keep displayed their beer permits and beer licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(1) No manufacturer, distributor, or warehouseman shall sell to anyone except a holder of a valid beer permit.

(2) Permits shall not be transferable.

(3) A separate permit shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute, or sell beer, except where a permit holder operates two (2) or more restaurants or other businesses within the same building, the permit holder may in his discretion operate some or all such businesses pursuant to the same permit.

(4) Upon submission of an application there shall be collected an application fee of two hundred fifty dollars (\$250.00). (Ord. #29-22, Sept. 1993)

8-207. Types of retail permits. Permits for the retail sale of beer issued by the board shall be of two types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for the sale of beer to be consumed off the premises. (1982 Code, § 2-207)

8-208. Constraints on issuance of permits. (1) All beer permits for the sale of beer in the City of Elizabethton, shall be issued in the discretion of the beverage board and the board shall issue permits to applicants for the sale of beer for on-premise consumption, off-premise consumption, or for both at the same location pursuant to one permit.

(2) Without regard to the number of permits issued, however, "on-premise" permits shall be issued only to restaurants, clubs and hotels. A restaurant shall be required to have a genuine capacity of and for not less than seventy-five (75) persons and shall be required that the primary purpose of the business is the sale of food prepared and consumed on site. A club will mean any club as defined in Tennessee Code Annotated §57-4-102 and by the Alcoholic Beverage Commission. A hotel will mean any hotel as defined by Tennessee Code Annotated §57-4-102. (Ord. #41-4, April 2005)

(3) Off-premise permits shall be issued only to establishments operating as a grocery or convenience store. A grocery shall be defined, for the purpose of this chapter, to mean a business establishment whose primary business is the sale of food merchandise, household items, and health and beauty aids. A grocery shall derive the majority (more than fifty percent [50%]) of its gross sales from the retail sale of the items set forth in the preceding sentence. A convenience store shall be defined, for the purpose of this chapter, to mean a business establishment where food stuffs and food merchandises are sold and may also be participating in the retail sale of gasoline or other petroleum products, but shall have an area for the sale of food stuffs and food merchandise of at least one thousand (1,000) square feet. A convenience store shall derive the majority (more than fifty percent [50%]) of its gross sales from the retail sale of the items set forth in the preceding sentence.

(4) No permit for the sale of beer for either "on-premise" consumption or "off-premise" consumption shall be issued to any person or establishment whose place of business is within one hundred feet (100') of any established church or school building. For the purpose of determining the one hundred foot (100') requirement as set forth herein, the distance shall be measured by straight line distance from the entrance of the main structure of the proposed site of the applicant's business to the entrance of the church or school building (Ord #53-25, December 2017). The applicant, if subject to this subsection, shall be required to submit a survey prepared by a Tennessee Registered Land Surveyor, showing the

distance to the nearest church or school. The survey as submitted shall become a part of the application and shall be subject to the provisions of Chapters 1 through 2 of Title 8 of the Elizabethton Municipal Code.

Restaurants that are issued a license by the State of Tennessee permitting the legal sale of alcoholic beverages for consumption on premises as provided by law shall be exempt from the provisions of this paragraph. (Ord. #41-4, April 2005)

(5) A temporary permit may be issued by the city clerk to allow the continued sale of alcoholic beverages at a location which presently has a valid permit. A temporary permit may be issued in order to allow a new application to be administratively processed and considered by the beverage board. The applicant for a temporary permit shall meet all requirements set forth in these ordinances, and the temporary permit shall not be issued for more than sixty (60) days.

(6) Shopping center districts which have heretofore met or hereafter meet the requirements of the zoning ordinance of the Elizabethton Municipal Code shall be exempt from the provisions of paragraph (4) of this section. (Ord. #29-22, Sept. 1993, as amended by Ord. #31-4, May 1995, Ord. #34-1, Feb. 1998, and Ord. #37-8, April 2001)

8-209. Days and hours of sales regulated. It shall be unlawful for any person to sell beer between the hours of 3:00 A.M. until 8:00 A.M. Monday through Saturday, or between the hours of 3:00 A.M. until 10:00 A.M. on Sunday. (Ord. #41-4, April 2005)

8-210. Distributors, etc. to be licensed by state, to comply with zoning laws, and to sell only to valid permit holders. (1) In addition to other requirements set out in this chapter, all distributors, wholesalers, warehousemen, and manufacturers shall be duly licensed under the law to do business in the State of Tennessee.

All distributors, wholesalers, warehousemen, and manufacturers of beer having a place of business within the corporate limits of the City of Elizabethton shall locate same in areas designated and zoned for manufacturing under the laws and ordinances of the City of Elizabethton.

(2) It shall be unlawful within the corporate limits of the City of Elizabethton for any distributors, wholesalers, warehousemen, and manufacturers of beer or for any of their salesmen or representatives to sell or deliver beer en route to or from delivery vehicles to any person or place other than holders of valid retail beer permits; and it shall be the duty of such all distributors, wholesalers, warehousemen, and manufacturers, their salesmen or representatives, to ascertain whether or not such person or place has been issued a valid beer permit by the City of Elizabethton. (Ord. #29-22, Sept. 1993)

8-211. Sign restrictions. It shall be unlawful for any person authorized to sell beer, for either on the premises consumption or off the premises use, to erect or maintain more than one advertising or display sign upon the outside of the building or in a window. Said sign may use the word "beer" or the name of any brand of beer. Said advertising or display sign shall not exceed four (4) inches in height and eighteen (18) inches in length, and the sign shall be placed parallel with and on the building or in a window. (1982 Code, § 2-211)

8-212. Sales to persons under the legal age to purchase beer as set by state statute is prohibited. It shall be unlawful for any person engaged in either "on premise" or "off premise" sale of beer to make or permit to be made any sales of beer to persons under the legal age to purchase beer as set by state statute. It shall be unlawful for any person to purchase beer for the purpose of selling or giving same to anyone not entitled to purchase beer as set by state statute, and any such purchase of beer is subject to fine and community service as set by state statute. (1982 Code, § 2-212)

8-213. Permit holders not to allow loitering or sales to intoxicated persons. It shall be unlawful for any permit holder to allow persons to loiter around the place of business, and it shall be unlawful for any permit holder to make, permit, or allow to be made any sale of beer to any person who is intoxicated. (Ord. #29-22, Sept. 1993)

8-214. DELETED (Ord. #41-4, April 2005)

8-215. Certain non-conforming permissess allowed to continue. Notwithstanding any provision to the contrary, any place, premises or location which has previously been issued a valid and lawful permit for the sale of beer for either on or off premises consumption, but which place, premises or location cannot meet the current provisions and requirements of chapters 1 through 2 of title 8 of the Elizabethton Municipal Code, a new owner, proprietor or licensee who is an immediate successor in interest to said place, premises or location shall be issued a new permit for the sale of beer although said place premises or location does not conform to the current provisions of chapters 1 through 2 of title 8 of this code, provided the issuance of said permit is not detrimental to the public health, safety or morals and the applicant meets the individual requirements set forth in chapters 1 through 2 of title 8 of the Municipal Code of Elizabethton, Tennessee. (1982 Code, § 2-215)

8-216. Retailers or public conveyances not to deliver beer. It shall be unlawful for any holder of a retail permit or license to sell beer, to deliver beer away from the premises designated and described in the license. It shall further be unlawful for any owner or operator of a public conveyance to purchase or deliver beer for or to any person not presently therein. (1982 Code, § 2-216)

8-217. Privilege tax. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer a privilege tax of one hundred dollars (\$100.00). The permit holder shall remit the privilege tax to the city clerk on January 1, 1994, and each successive January 1 thereafter. The city clerk shall mail notice of the tax to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to each permit holder at the address specified in the permit application. If a permit holder does not pay the tax by January 31, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the permit shall be void. 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. #29-22, Sept. 1993)

8-218. Premises constituting non-conforming uses not to be licensed. No retail permit or license shall be issued to any person to sell beer from or any place, premises or location which constitutes non-conforming use under the zoning laws and ordinances of the City of Elizabethton in effect at the time of application for such permit or license. However any place, premises of location originally lawfully licensed to sell beer prior to the enactment of the provisions of the zoning ordinance but which place, premises or location presently does not conform with the current provisions of the zoning ordinance may be issued a new permit or license to sell beer and such non-conforming use allowed to continue provided it meets the requirements of Elizabethton Zoning Ordinance governing the continuance of non-conforming uses and the individual applicant meets the requirements set forth in chapters 1 through 2 of title 8 of the Municipal Code of Elizabethton, Tennessee. (1982 Code, § 2-218)

8-219. Police inspections. It shall be the duty of the police department of the City of Elizabethton or of any special police officers appointed by the city manager to inspect the place of business and premises of the holders of permits and licenses under this chapter, and it shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time that such place is open for business. (1982 Code, § 2-219)

8-220. Credit sales to retailers prohibited. In order to collect the wholesale beer tax efficiently, all sales of beer by wholesalers to retailers or any other person, except sales to duly licensed wholesalers, shall be for cash only. The intent of this section and provision is that wholesale sale of beer and delivery and payment therefor shall be a simultaneous transaction, and any maneuver, device, or method of extending credit is expressly prohibited. (1982 Code, § 2-220)

8-221. No adjustments for shortages, etc., to be made by wholesalers except at time of delivery. In order accurately to determine the tax to be paid, no wholesaler shall make any reduction or adjustment for shortages or broken bottles, including chips and flats, except at the time of sale and delivery. All beer shall be inspected and accepted by the retailer or any other person at the time of delivery and no adjustment or refund for merchandise damage, breakage, or shortage shall be made by any wholesaler subsequent to the time of delivery. (1982 Code, § 2-221)

8-222. No gifts or price reductions by wholesalers. In order to determine the exact amount of tax and to facilitate the collection thereof, no wholesaler shall make any gift of beer or any other type of gift to any retailer, nor shall any deal be made with the retailer or any person whereby the wholesale price of beer shall be reduced below the list price as an inducement to said retailer or any other person to make larger purchases. (1982 Code, § 2-222)

8-223. All sales to be within licensed premises. It shall be unlawful for any on-premise permittee to sell beer anywhere except within the confines of the property boundary used for the sale or purchase of beer. It shall be unlawful for any off-premise permittee to sell beer anywhere except within the confines of the building used for the sale or purchase of beer. Drive-in windows are expressly prohibited. (Ord. #31-4, May 1995)

8-224. Violations.
Responsible Vendor

A permit holder who is a responsible vendor in good standing with the Tennessee Alcoholic Beverage Commission shall only be subject to a civil penalty not to exceed One Thousand (\$1,000.00) Dollars for each offense of making or

permitting to be made any sale of beer to a minor, who is defined as anyone less than twenty-one (21) years of age, or for any other violation of this Chapter.

Permanent revocation of a Beer Permit may only be applied when the permit holder has at least two (2) violations within a twelve (12) month period.

All Other Vendors

A permit holder violating any provision of this Chapter shall be cited to the Beverage Board for a suspension or revocation of the permit. The Beverage 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 Two Thousand Five Hundred (\$2,500.00) Dollars for each offense of permitting any sale to an individual under the legal age to purchase intoxicating beverages; or a civil penalty not to exceed One Thousand (\$1,000.00) Dollars for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the permit 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. The payment of any civil penalty shall not be deemed as a waiver of the permit holder's right to seek review by statutory writ of certiorari. (Ord. #43-13, Sept. 2007).

ORDINANCE NO. 53-25

"AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF ELIZABETHTON, TENNESSEE, 2015, AS AMENDED, BY REVISING TITLE 8, CHAPTER 2, SECTION 8-208(2)(3) AND (4) TO ALLOW FOR MICROBREWERIES AND BREWERIES WITHIN THE CORPORATE LIMITS OF THE CITY OF ELIZABETHTON AND, FURTHER, TO REDUCE THE DISTANCE REQUIREMENT FOR THE ISSUANCE OF EITHER AN "ON-PREMISE" CONSUMPTION OR "OFF-PREMISE" CONSUMPTION BEER PERMIT FROM TWO HUNDRED TWENTY (220) FEET TO ONE HUNDRED (100) FEET TO ANY ESTABLISHED CHURCH OR SCHOOL BUILDING WITH THE DISTANCE BEING MEASURED BY A STRAIGHT LINE DISTANCE FROM THE CLOSEST PRIMARY PUBLIC ENTRANCE OF THE PROPOSED SITE OF THE APPLICANT'S BUSINESS TO THE CLOSEST PUBLIC ENTRANCE OF THE CHURCH OR SCHOOL BUILDING."

WHEREAS, City Staff has reviewed Title 8, Chapter 2, Section 8-208, which deals with constraints on the issuance of Beer Permits within the City of Elizabethton, Tennessee, and determined that Section 8-208, Subsections (2), (3) and (4) should be amended to allow microbreweries and breweries within the City of Elizabethton, Tennessee; and

WHEREAS, City Staff also proposes to reduce the distance requirement for the issuance of either a "On-Premise" Consumption or "Off-Premise" Consumption Beer Permit from two hundred twenty (220) feet to one hundred (100) feet from any established church or school building and, further, amended Section 8-208 (4) to state that the distance would be measured by a straight line distance from the closest primary public entrance of the proposed site of the applicant's business to the closest public entrance of the church or school building.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ELIZABETHTON, TENNESSEE, AS FOLLOWS:

Section 1. That Title 8, Chapter 2, Section 8-208 (2) (3) and (4) shall be revised in their entirety to read as follows:

8-208. Constraints on issuance of permits.

(2) Without regard to the number of permits issued, however, "on-premise" permits shall be issued only to restaurants, clubs, microbreweries, breweries, and hotels. A restaurant shall be required to have a genuine capacity of and for not less than forty (40) persons and shall be required that the primary purpose of the business is the sale of food prepared and consumed on-site. A microbrewery and brewery will mean any microbrewery or brewery as defined in Elizabethton Municipal Code, §14-203 and shall be required to provide foodstuffs for

purchase or freely available to consumers. A club will mean any club as defined in Tennessee Code Annotated §57-4-102 and by the Alcoholic Beverage Commission. A hotel will mean any hotel as defined by Tennessee Code Annotated §57-4-102.

(3) Off-Premise permits shall be issued only to establishments operating as a grocery, microbrewery, brewery, or convenience store. A grocery shall be defined, for the purpose of this chapter, to mean a business establishment whose primary business is the sale of food merchandise, household items, and health and beauty aids. A grocery shall derive the majority (more than fifty percent (50%)) of its gross sales from the retail sale of the items set forth in the preceding sentence. A microbrewery and brewery will mean any microbrewery or brewery as defined in Elizabethton Municipal Code, §14-203. A convenience store shall be defined, for the purpose of this chapter, to mean a business establishment where food stuffs and food merchandises are sold and may also be participating in the retail sale of gasoline or other petroleum products, but shall have an area for the sale of food stuffs and food merchandise of at least one thousand (1,000) square feet. A convenience store shall derive the majority (more than fifty percent (50%)) of its gross sales from the retail sale of the items set forth in the preceding sentence.

(4) No permit for the sale of beer for either "on-premise" consumption or "off-premise" consumption shall be issued to any person or establishment whose place of business is within one hundred (100) feet of any established church or school building. For the purpose of determining the one hundred (100) foot requirement as set forth herein, the distance shall be measured by straight line distance from the closest primary public entrance of the proposed site of the applicant's business to the closest public entrance of the church or school building. The applicant, if subject to this subsection, shall be required to submit a survey prepared by a Tennessee registered land surveyor, showing the distance to the nearest public entrance of the church or school. The survey as submitted shall become a part of the application and shall be subject to the provisions of Chapters 1 through 2 of Title 8 of the Elizabethton Municipal Code.

Restaurants that are issued a license by the State of Tennessee permitting the legal sale of alcoholic beverages for consumption on premises as provided by law shall be exempt from the provision of the paragraph above.

Section 2. This Ordinance shall take effect ten (10) days from and after its final passage.

PASSED ON FIRST READING: November 9, 2017

PUBLIC HEARING: November 9, 2017

PASSED ON SECOND READING: December 14, 2017

CITY OF ELIZABETHTON, TENNESSEE

By: Curt Alexander
CURT ALEXANDER, MAYOR

ATTEST:

Deborah B. Kessler
DEBORAH B. KESSLER, CITY CLERK

APPROVED AS TO FORM:

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