

**AGENDA  
CITY OF MORRISTOWN, TENNESSEE  
CITY COUNCIL MEETING  
APRIL 5, 2016 – 5:00 P.M.**

**1. CALL TO ORDER**

Mayor Gary Chesney

**2. INVOCATION**

Don Lamb, Chaplain, Morristown Fire Department

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL**

**5. APPROVAL OF MINUTES**

1. March 15, 2016

**6. PROCLAMATIONS/PRESENTATIONS**

**7. CITIZEN COMMENTS ABOUT AGENDA ITEMS ONLY  
(Other than items scheduled for public hearing.)**

**8. OLD BUSINESS**

**8-a. Public Hearings & Adoption of Ordinances/Resolutions**

1. Ordinance No. 3544  
An Ordinance of the City Council for the City of Morristown, Tennessee,  
Amending Title 8 of the Morristown Municipal Code. (Alcoholic Beverages)
2. Ordinance No. 3545  
An Ordinance of the City Council for the City of Morristown, Tennessee,  
Amending Title 13, Chapter 3 of the Morristown Municipal Code. (Tree  
Board)

**9. NEW BUSINESS**

**9-a. Resolutions**

1. Resolution No. \_\_\_\_\_  
A Resolution of the City of Morristown, Tennessee, approving the Civil Service  
Board's Amendments to its Public Safety Qualifications and Standards for  
Entry Level and Promotion Books.

**9-b. Introduction and First Reading of Ordinances**

**9-c. Awarding of Bids/Contracts**

1. Approval of Bid/Contract with Whaley and Sons, Inc. for construction services for the Safe Routes to School Project, in the total amount of \$93,715.
2. Approval of Bid/Contract for the purchase of a used Turf Mower for the Parks & Recreation Department from Ladd's in the amount of \$21,000.
3. Approval of Request for Proposal – Real Estate Agent/Broker Services, the fee is to be determined on each transaction based on a percentage or an hourly rate.

**9-d. Board/Commission Appointments**

**9-e. New Issues**

1. Police Department hiring of one (1) entry-level Patrol Officer.
2. City Council confirmation of Police Department disciplinary action.

**10. CITY ADMINISTRATOR'S REPORT**

**11. COMMUNICATIONS/PETITIONS**

**This is the portion of the meeting where members of the audience may speak subject to the guidelines provided.**

**12. COMMENTS FROM MAYOR/COUNCILMEMBERS/COMMITTEES**

**13. ADJOURN**

**City Council Meeting/Holiday Schedule:**  
Regular City Council Meeting with Work Session

April 19, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
April 19, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 3, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 16, 2016	(Mon) 9:00 a.m.	City Administrator Budget Presentation to Council Foundation Room, Walters State
May 17, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
May 17, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 30, 2016	(Monday)	City Employee's Holiday Memorial Day
June 7, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
June 21, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
June 21, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
June 23, 2016	(Thurs) 7:00 p.m.	City Council Roundtable, Buffalo Trail Baptist Church

**WORK SESSION AGENDA**  
**APRIL 5, 2016**  
**5:00 p.m.**

**1. Building Assessment.**

**STATE OF TENNESSEE  
COUNTY OF HAMBLEN  
CORPORATION OF MORRISTOWN  
MARCH 15, 2016**

The City Council for the City of Morristown, Hamblen County, Tennessee, met in regular session at the regular meeting place of the Council in the Morristown City Center at 5:00 p.m., Tuesday, March 15, 2016, with the Honorable Mayor Gary Chesney, presiding and the following Councilmembers present; Bob Garrett, Chris Bivens, Kay Senter, Dennis Alvis, Ken Smith and Tommy Pedigo.

Mike Cutshaw, Chaplain, Morristown Police Department led in the invocation and Councilmember Alvis led in the "Pledge of Allegiance".

Councilmember Alvis made a motion to approve the March 1, 2016, minutes as circulated. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to place Ordinance No. 3544 on the floor so that amendments might be made. Councilmember Pedigo seconded the motion.

Councilmember Senter made a motion to amend the ordinance by restoring distance requirements. Councilmember Pedigo seconded the motion and upon roll call; Councilmembers Garrett, Bivens, Senter, Smith, Pedigo and Mayor Chesney voted: "aye"; Councilmember Alvis voted "no".

Councilmember Pedigo made a motion to amend the ordinance by raising the minimum seating requirements from 25 to 40. Councilmember Senter seconded the motion and upon roll call; Councilmembers Garrett, Bivens, Senter, Smith, Pedigo and Mayor Chesney voted: "aye"; Councilmember Alvis voted "no".

Councilmembers returned to the main motion made by Councilmember Senter and seconded by Councilmember Pedigo to approve Ordinance No. 3544 on first reading, with amendments, and schedule a public hearing relative to final passage of said ordinance for April 5, 2016, and upon roll call; Councilmembers Garrett, Bivens, Senter, Smith, Pedigo and Mayor Chesney voted: "aye"; Councilmember Alvis voted "no".

**Ordinance No. 3544  
An Ordinance of the City Council for the City of Morristown,  
Tennessee, Amending Title 8 of the Morristown Municipal Code.  
(Alcoholic Beverages)**

Councilmember Senter made a motion to approve Ordinance No. 3545 on first reading and schedule a public hearing relative to final passage of said ordinance for April 5, 2016. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

**Ordinance No. 3545**

**An Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 13, Chapter 3 of the Morristown Municipal Code. (Tree Board)**

Councilmember Pedigo made a motion to approve the Architect Contract for Fire Station #4 to Fuller Architects subject to negotiation of fee. Councilmember Smith seconded the motion and upon roll call; all voted: "aye".

Councilmember Senter made a motion to approve change order #1 to Stansell Electric Company, Inc., for the Traffic Signal Project at West First North Street and High Street increasing the contract amount by \$4,426.78 from \$160,072 to \$164,498.78, and completion time by 211 days, from 270 (November 2, 2015) to 481 days (May 31, 2016). Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Councilmember Alvis made a motion to approve change order #1 to Stansell Electric Company, Inc. for the State Route 34 ITS Traffic Signal Coordination Project increasing the contract amount by \$22,415.66, from \$1,263,725 to \$1,286,140.66, and the completion time by 211 days from 270 (November 2, 2015) to 481 days (May 31, 2016). Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Councilmember Bivens made a motion to approve the grant amendment by the State of Tennessee Department of Transportation Aeronautics Division for future development land acquisition (amended for unanticipated environmental and acquisition expenses and increase estimated property value) in the amount of \$16,800 bringing total of grant from \$175,800 to \$192,600. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Smith made a motion to approve the Stormwater Management/BMP Facilities Maintenance Agreement between Cherokee Crossing LLC, and the City of Morristown. Councilmember Bivens seconded the motion and upon roll call; all voted "aye".

Councilmember Bivens made a motion to approve the purchase of 8 Tasers in the amount of \$13,700 for the Police Department. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Smith made a motion to approve the purchase of a 2006 Chevrolet 1500 H.D. Pick-up Truck in the amount of \$14,800 for the Police Department's Litter Crew. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Councilmember Pedigo made a motion to approve the acquisition and transport of a Military Armored Vehicle in the amount of \$4,600 to Heavy Hauling, LLC for the Police Department. Councilmember Bivens seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve the sale of property located at Lot Nos. 13, 14, 15, 16, 17-A, 17-B, 18 and 19 of the Fawbush Estate Subdivision, (West Elementary), to the Hamblen County Board of Education. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Smith made a motion to approve the sale of property consisting of 7.3555 acres in the Morristown Airport Industrial District (MAID) to Tuff Torq Corporation in the amount of \$1,000 per acre for a total of \$7,355.50. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Senter made a motion to approve the Certificate of Compliance for Estate of Peter J. Balling, owner, (Edward Joseph Balling Executor), Morristown Beverage Associates, Inc., DBA Cork & Keg Package Store, 2304 Morningside Drive. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Mayor Chesney adjourned the March 15, 2016, City Council meeting at 5:54 p.m.

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MAYOR

ATTEST:

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CITY ADMINISTRATOR

ORDINANCE NO. 3544  
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY  
OF MORRISTOWN, TENNESSEE, AMENDING TITLE 8 OF THE  
MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN  
TENNESSEE, THAT TITLE 8 OF THE MUNICIPAL CODE IS AMENDED AS  
FOLLOWS:

“TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

CHAPTER

1. INTOXICATING LIQUORS/LIQUOR STORES.
2. BEER.
3. INTOXICATING LIQUORS/LIQUOR-BY-THE-DRINK.
4. WINE SALES IN RETAIL FOOD STORES

CHAPTER 1

INTOXICATING LIQUORS/LIQUOR STORES

SECTION

- 8-101. Definitions.
- 8-102. Scope of chapter.
- 8-103. Compliance with state law required.
- 8-104. Purchases from persons without permit prohibited.
- 8-105. Interest in more than one retail business.
- 8-106. License holder--restrictions generally.
- 8-107. Regulations of sales and business hours.
- 8-108. Store location.
- 8-109. General restrictions on liquor stores.
- 8-110. Solicitation of orders by retailer and wholesaler.
- 8-111. Municipal inspection fees.
- 8-112. Certificate of compliance.
- 8-113. Duration of employee permit; reapplication.
- 8-114. Transfer prohibited; effect of change in business location.
- 8-115. Business taxes.
- 8-116. Other retail sales permitted.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57, ch. 3.

Charter reference

Alcoholic beverages: § 5(25).



8-101. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as defined in Tennessee Code Annotated §57-5-101(b). Notwithstanding any provision to the contrary in this title, except for beer as defined in Tennessee Code Annotated §57-5-101(b), "alcoholic beverage" or "beverage" also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under Tennessee Code Annotated §57-5-101(b) shall also be alcoholic beverages. Notwithstanding this subsection 8-101(1) definition, products or beverages containing less than one percent (.5%) alcohol by volume, other than wine as defined in Tennessee Code Annotated §57-3-101, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to this title.

(2) "Residence." Actual physical residence accompanied by an intention to make such residence a permanent "home."

(3) "License." The license or permit issued pursuant to Tennessee Code Annotated, title 57, chapter 3.

(4) "Permit." The permit required or issued pursuant to this chapter, and "permittee" means any person, firm, or corporation to whom such permit has been issued pursuant to this chapter.

(5) "Person." Any natural person as well as any corporation, partnership, firm, or association.

(6) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale; provided, however, that it does not include any transaction between a licensee and its employee or employees in the normal course of employment for which no payment is expected or received or depletions from a licensee's inventory related to routine business or marketing purposes where all applicable taxes have been paid.

(7) "Retailer" or "dealer." Any person who sells at retail any beverage for the sale of which a permit is required under the provisions of this chapter. Words importing the masculine gender shall include the feminine and the neuter; the singular shall include the plural. (1979 Code, § 2-201, as replaced by Ord. #3442, June 2012)

8-102. Scope of chapter. It shall be unlawful to store, transport, sell, give away, distribute, possess, or receive alcoholic beverages in the city unless provisions of this chapter and the laws of the state have been complied with.



Nothing in this chapter regulates the transportation, storage, sale, distribution, possession, or receipt of or tax upon any beverage of alcoholic content of five percent (5%) by weight or less, and nothing in this code or other city ordinances related thereto is modified by this chapter. (1979 Code, § 2-202, as replaced by Ord. #3442, June 2012)

8-103. Compliance with state law required. No person, firm, corporation, association, or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained.

Intoxicating liquor regulations are addressed in Title 57 of the Tennessee Code Annotated. Any conflicts or omissions in this ordinance shall be governed by Title 57. (1979 Code, § 2-203, as replaced by Ord. #3442, June 2012)

8-104. Purchases from persons without permit prohibited. It shall be unlawful for any person to buy or purchase any alcoholic beverages from any person who, to the knowledge of the buyer or purchaser, does not hold the appropriate permit or license required under the provisions of this chapter or under the laws of the state, authorizing the sale of such beverages to the buyer. Furthermore, no retailer shall purchase any alcoholic beverages for resale from anyone other than a licensed wholesaler. (1979 Code, § 2-204, as replaced by Ord. #3442, June 2012)

8-105. Interest in more than one retail business. Except for retailers licensed under Tennessee Code Annotated §57-3-204, no person, corporation or other entity shall, directly or indirectly, operate any licensed retail establishment selling alcoholic spirituous beverages, not including wine, for off-premises consumption in this state. "Indirectly" means any kind of interest in such a retail business by way of stock ownership, loan, partner's interest or otherwise. A landlord shall be deemed to have an indirect interest in such a retail business when the lease agreement is based upon a percentage of profits or any other factor based upon sales of alcoholic beverages by the tenant as distinguished from being simply an interest in land for a period of time at a definite rate. Except as provided for in this section, nothing shall prohibit the holder of a retail license from having more than one (1) retail license. If two (2) or more retail licenses have been authorized, no retail licensee shall hold more than fifty percent (50%) of the licenses authorized for issuance in the city.

8-106. License holder—restrictions generally. No retailer shall operate a retail package store or sell any alcoholic beverages within the City unless the requisite license and permit have been obtained pursuant to the rules and regulations provided for in Tennessee Code Annotated §57-3-204.

8-107. Regulations of sales and business hours. (1) Hours of sales on weekdays. Retail dealers in alcoholic beverages shall not engage in the sale of such

beverages, except between the hours of 8:00 A.M. and 11:00 P.M., on weekdays and Saturdays. The store may not be open to the general public except during these regular business hours.

(2) Sales on Sundays and holidays. No retailer shall sell or give away any alcoholic beverage between 11:00 P.M. on Saturday and 8:00 A.M. on the following Monday of each week. Retail dealers shall be closed for business on the following holidays: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

(3) Sales to minors. A retailer or any employee thereof shall not make or permit to be made any sales of alcoholic beverages or beer to minors. Prior to making a sale of alcoholic beverages for off-premises consumption, the adult consumer whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older must present to the retailer or any employee of the retailer a valid, government issued document, such as a driver license or other form of identification deemed acceptable to the retailer that includes the photograph and birth date of the adult consumer attempting to make an alcoholic beverage purchase. Persons exempt under state law from the requirement of having photo identification shall present identification that is acceptable to the retailer. The retailer or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of alcoholic beverages for off-premises consumption shall be made to a person whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older who does not present such a document or other form of identification to the license holder or any employee of the license holder in a face-to-face transaction.

(4) Keeping an unsealed bottle or container. 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 such open bottles and containers of damaged and unmarketable product retained by the retail licensee for purpose of return to a wholesaler or such open bottles and containers required for conducting a sales demonstration as permitted by Tennessee Code Annotated § 57-3-404(h).

(5) Sales to persons intoxicated. No retailer shall sell any alcoholic beverages or beer to any person who is visibly intoxicated, nor shall any retailer selling alcoholic beverages or beer sell to any person accompanied by a person who is visibly intoxicated.

(6) Sales on credit. No holder of a permit for the sale of alcoholic beverages at retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.

(7) Discount sales. A retailer may offer a discount in such manner as the retailer deems appropriate as long as the discount being offered is not below the cost paid by the retailer to purchase the alcoholic beverages from the wholesaler.

(8) Consumption on premises. No alcoholic beverages shall be sold for consumption, or consumed, on the premises of the seller, except that a retail

licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the retail licensee. Such tastings shall be for sales, education and promotional purposes. No person holding a license under § 57-3-203 shall, directly or indirectly, provide any products, funding, labor, support or reimbursement to a retailer for the consumer tastings authorized by this subsection.

The tastings may be held at the option of the retail licensee during the hours the retail licensee is open for business, without filing any notice other than as provided with the commission, and no charge or fee may be assessed by the commission for a retail licensee to offer such complimentary samples.

The size of each sample shall be no greater than approximately two ounces (2 oz.) for each wine or high alcohol content beer sample and no greater than approximately one half ounce (1/2 oz.) for each liquor sample. It is the responsibility of the retail licensee to limit the number of tastings per customer and the number of products available for tasting.

Notwithstanding any law or rule to the contrary, a retail licensee or employee of the licensee may participate in tastings.

(9) Public display and public drinking prohibited. It shall be unlawful for any person to publicly drink any alcoholic beverage on any street or sidewalk, on any school ground or in any park, theatre, stadium, or school. It shall be unlawful for any person to display openly a bottle or other container of alcoholic beverage on any public street, sidewalk, or school ground, or in any park, theatre, stadium, or school. (1979 Code, § 2-208, as amended by Ord. #2555, Oct. 1988, and Ord. #3097, May 2002, and replaced by Ord. #3442, June 2012)

8-108. Store location. It shall be unlawful for any person to operate or maintain a liquor store in the city unless such store is located in the following manner:

(1) In the Intermediate Business Zone, on Highway 11E or Morris Boulevard, but not both, a distance of at least six-tenths (.6) of a mile east of the intersection of Cumberland and Main Streets, there may be one (1) store.

(2) In the Intermediate Business Zone, on Highway 11E, a distance of at least six-tenths (.6) of a mile west of the intersection of Cumberland and Main Streets, there may be one (1) store.

(3) In the Intermediate Business Zone, on North Cumberland Street a distance of at least six-tenths (.6) of a mile north of the intersection of Cumberland and Main Streets, there may be one (1) store.

(4) In the Intermediate Business Zone, on South Cumberland Street, a distance of at least six-tenths (.6) of a mile south of the intersection of Cumberland and Main Streets, there may be one (1) store.

(5) No closer than seven thousand five hundred feet (7,500') in a direct line to any of the four (4) existing stores, but inside the perimeter of the four (4) stores, there may be one (1) store.

(6) No store shall be located within three hundred feet (300') of any church, school, or public building.

(7) No store shall be located adjacent to property where any house used as a residence is located.

(1979 Code, § 2-209, as amended by Ord. #2523, Mar. 1988, and replaced by Ord. #3442, June 2012)

8-109. General restrictions on liquor stores. Retail liquor stores shall comply with such rules and restrictions, including but not limited to building requirements, as stated in Tennessee Code Annotated §57-3-404, as well as any applicable existing or future City ordinances.

8-110. Solicitation of orders by retailer and wholesaler. Retailers licensed under Tennessee Code Annotated § 57-3-204 are authorized, for a fee or without a fee, to provide, within the state, consulting services related to the products, merchandise and supplies which the retailer is authorized to sell under § 57-3-404(e) and alcoholic beverages, and supply, deliver and install products authorized to be sold by the retailer to locations outside of the licensed premises in connection with special events, parties, alcoholic beverage tastings, educational classes and the establishment of private collections or wine cellars.

Any licensee making a delivery of alcohol, wine or beer is subject to Tennessee Code Annotated §§ 57-3-406(c) and 57-3-406(d). A record of all deliveries shall be maintained in writing and must contain all information concerning the recipient, products delivered, the time of delivery and place of delivery.

8-111. Municipal Inspection fees. Each retailer dealer shall pay a municipal inspection and enforcement fee in an amount set by Tennessee Code Annotated §57-3-501 on the gross purchase price of alcoholic beverages purchased by him for resale. This fee is subject to change and any change in this fee amount shall be governed by title 57, chapter 3 of the Tennessee Code Annotated. The collection process for this fee shall be governed by Tennessee Code Annotated §57-3-501 et. seq.

8-112. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. An applicant or applicant group for a retail liquor store permit shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city administrator may require:

(1) The name and street address of each person to have an interest, direct or indirect, in the retail liquor store as an owner, partner, stockholder or otherwise. That the applicant or applicants who are to be in actual charge of the business have

not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(2) The name and address of the proposed retail liquor store. That the applicant or applicants have secured a location for the business, which complies with all restrictions of this chapter.

(3) That the applicant or applicants have complied with this chapter regulating the number of retail licenses to be issued.

(4) A statement that the persons receiving the requested certificate to the best of their knowledge if awarded the certificate of compliance could comply with all the requirements for obtaining the required licenses and permits under state law and the provisions of this chapter for the operation of a retail liquor store within the city.

(5) The agreement of each applicant to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant as to the validity and reasonableness of this chapter, including the fees and taxes imposed thereby with respect to the sale of retail alcoholic beverages.

(6) Fees. Each original Certificate of Compliance application shall be accompanied by a non-refundable two hundred fifty dollar (\$250.00) investigation fee. One (1) application fee per applicant group is sufficient.

(7) The Certificate of Compliance must be renewed every two (2) years. A renewal application will be provided by the city recorder. There is no fee charged for the renewal of the Certificate of Compliance. (1979 Code, § 2-217, as replaced by Ord. #3097, May 2002, and Ord. #3442, June 2012)

8-115. Business taxes. Each permittee hereunder shall be subject to and shall pay the business taxes provided for under Tennessee Code Annotated, § 67-4-701, et seq., and in particular in compliance with Tennessee Code Annotated §§ 67-4-708(2)(G) and 67-4-709(2). (as added by Ord. #3097, May 2002, and replaced by Ord. #3442, June 2012)

8-116. Other retail sales permitted. Each permittee hereunder shall be permitted to sell retail items related to or incidental to the use, consumption, dispensing or storage of alcoholic beverages, together with merchandise and supplies related to special events or parties, subject to the restrictions in Tennessee Code Annotated §57-3-806(e).

A retail licensee may sell nonalcoholic products to persons under twenty-one (21) years of age, including gift cards.



## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 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. Suspension and revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Open beverage containers prohibited.
- 8-216. Signage required.
- 8-217. Limitation on permits issued.
- 8-218. Adoption of the Tennessee Responsible Vendor Act.

8-201. Beer board established. There is hereby established a beer board to be composed of the members of the city council. The mayor shall be the chairperson. All members of the beer board shall serve without compensation. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board, when there is business to conduct, shall hold regular meetings in the city hall immediately prior to or following regular city council meetings. Special meetings may be called by the chairman provided he gives a reasonable notice thereof to each member. Special meetings may also be called by a majority of the board members, who also shall give reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

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<sup>1</sup>Municipal code reference

Tax provisions: title 5.

State law reference

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

8-203. Record of beer board proceedings to be kept. The city administrator shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. Applicants for beer permits shall appear in person before the board will consider their application. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the giving away, selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, Ord. #3300, Aug. 2007, and Ord. #3442, June 2012)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. Should the Tennessee Code Annotated §57-5-101 statutory definition of "beer" change, that definition shall govern.

8-207. Permit required for engaging in beer business. Subject to Tennessee Code Annotated §57-5-103, it shall be unlawful for any person to give away, sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board.

(1) The beer board shall adopt by resolution the application form for a beer permit. Each application shall be furnished pursuant to Tennessee Code Annotated, § 57-5-103, and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00), plus any other requisite fees pertaining to the acquisition of the permit. Said fee shall be in cash or equivalent payable to the City of Morristown. The applicant shall fully and truthfully complete each portion of the application.



(2) No permit will be issued by the City unless the applicant has been a citizen or lawful resident of the United States for at least one (1) year immediately preceding the date of applying for the permit and the applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. No permit shall be issued hereunder to an individual who is an officer or employee of the city.

(3) A sign of minimum size two feet by two feet (2' x 2') shall be posted on the premise for which application is being made at least fifteen (15) days prior to the meeting of the beer board at which the application will be considered. At least ten (10) days prior to being considered by the beer board, an announcement in a newspaper of general circulation must appear stating the name of the applicant, the type of permit desired, and the address of the premise at which the permit is desired.

(4) A permit is void at midnight of the day a permit holder ceases business for which the permit was granted and must be surrendered to the city cashier's office within five (5) working days.

(5) If application is being made for an establishment that has not been constructed or is under construction, a complete site plan and floor plan must be submitted with the application. The plans must provide a description of the entire premises, including open and parking areas available to and for the use of the business. If construction is not commenced within six (6) months or is not completed within eighteen (18) months from the date of approval of the beer permit; or if after completion of the construction, the facility differs materially from the submitted plans or violates any provisions of this chapter in effect at the time of approval of the permit, any permit issued for the facility becomes immediately void.

(6) A permit is not transferable. (Ord. #2741, May 1994, as amended by Ord. #2911, Jan. 1998, and Ord. #3300, Aug. 2007, and replaced by Ord. #3442, June 2012)

(7) An applicant can apply for the following types of permits:

(a) Off-premises permit for the retail sale of beer for consumption off the premises of the permittee.

(b) On-premises permit for the retail sale of beer for consumption on the premises of the permittee.

(c) On- and off-premise permit for the retail sale of beer for consumption on and off the premises of the permittee in which the business is a restaurant and engaged in the manufacture of beer of alcoholic content of not more than five percent (5%) by weight, and which sells the aforesaid beer for consumption on the premises or off the premises, providing that the aggregate of sales shall not exceed twenty-five thousand (25,000) barrels of beer annually, in accordance with the provisions of Tennessee Code Annotated, Chapter 5, Title 57, as the same now reads, which chapter is hereby incorporated in its entirety by reference as fully as if set forth verbatim herein.

(8) The premises for which an applicant desires a beer permit shall be inspected by all necessary inspection officers of the City.

(9) A temporary permit may be issued by the City Administrator or his designee to allow the continued sale of alcoholic beverages and beer 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 beer 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 thirty (30) days. The City Administrator or his designee shall be entitled to immediately revoke the temporary permit upon discovering any violation of this chapter.

(10) Upon receiving approval and a permit from the beer board, the permit holder shall immediately notify the City Administrator or his designee of any change in business ownership, relocation of the business, changes in the business' name, or termination of the business. Failure to notify the City within five (5) days of any of these changes shall be grounds to cite the permit holder to the beer board to show cause why the permit should not be suspended or revoked.

(11) A beer permit shall be valid only for a single location except as provided in section (12) below, and cannot be transferred to another location.

(12) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such business pursuant to the same permit.

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00) per year. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on issuance of the permit, and each successive January 1, to the City of Morristown, Tennessee. A penalty of ten dollars (\$10.00) will be assessed on the second working day following January 1, and on each successive working day until the privilege tax is paid. If the renewal privilege tax is not paid by February 1 of each year, the permit shall become void and the holder must surrender the permit to the city. 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. #2741, May 1994, as deleted by Ord. #2900, Nov. 1997, amended by Ord. #2911, Jan. 1998, and Ord. #3391, June 2010, and replaced by Ord. #3442, June 2012)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them.

(1) Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his

permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions that are written into his permit by the beer board.

(2) No on-premises permit shall be issued for a premise other than a nonprofit club or restaurant. No on- and off- premise permit shall be issued for a premise other than a restaurant brewery. For purposes of this chapter, "on premise", and "on-and off- premise" shall include the interior of the business enclosed by permanent walls and covered by a permanent roof, as well as all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located, and in the case of a nonprofit club, a golf course that is a part of the establishment. An outdoor serving area shall be defined as a patio, deck, courtyard or other outdoor area where the permitted establishment provides service to the outdoor serving area that is (1) contiguous to the exterior of the building in which the business is located, (2) operated and controlled by the business, and (3) fenced or surrounded on all sides except for designated entrances and exits. The fencing or surrounding barrier need not be permanent, but must consist of a barrier not less than forty (40) inches high and must be constructed of a substantial material without gaps or spaces that would allow ingress and egress of the premises except through designated entrances and exits. Examples of substantial material includes, but is not limited to, securely connected cattle gates, planters, decorative fencing or other decorative architectural or landscaping material. An outdoor serving area may not include all or any part of an area otherwise used by the business or by the public for parking.

(a) "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least forty (40) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. The Restaurant should serve at least one (1) meal per day at least four (4) days a week, with the exception of holidays, vacations and periods of redecorating. The serving of such meals shall be the principal business conducted, except where the restaurant is located in a hotel or motel which provides at least thirty (30) rooms or suites for guests, in which case, the restaurant business may be secondary to the hotel or motel business. In no case shall beer be sold at times other than when meals are being served.

(b) "Nonprofit club" means a corporation organized and in good standing under the laws of the State of Tennessee, not for profit, solely for the promotion of some common object of fellowship, recreation and other nonprofit purposes other than the sale and consumption of beverages containing alcohol.

(c) Annual sales of beer as defined in this chapter shall not exceed twenty-five percent (25%) of total taxable sales for any on premise permit holder.

In the application of this section, total taxable sales shall be defined as those food and non-alcoholic beverage sales subject to state and local sales taxes. The permittee shall provide the City Administrator or his designee with proof of compliance with this section when he applies for a renewal of his beer permit. It shall be a violation of this section if the beer sales exceed the twenty-five percent (25%) limit in any calendar year. Should a permittee violate this section, the City shall have the right to deny a permittee's request for renewal.

(3) No off-premise permit shall be issued for a premise other than full line grocery stores, drug stores, or convenience stores. For the application of this section, a full line grocery store shall be defined as a store that maintains an inventory of staple food items including fresh meats, vegetables, produce, and fruits. A drug store shall be defined as a business whose primary business is the sale of prescription drugs and associated items. A convenience store shall be defined as a store that maintains an inventory of basic food items such as luncheon meats, snack items, milk products, bread products, and canned goods.

(4) Each holder of a beer permit shall continuously maintain in this city:

(a) A registered office which may be the same as the permitted place of business; and

(b) A registered agent, who shall be an individual whose business office is identical with the registered office.

(5) No brewer, wholesaler or manufacturer of beer, nor any agent of such brewer, wholesaler or manufacturer, shall be permitted to make a loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of beer, or in the premises occupied by such retailer. No person holding and/or exercising a valid permit issued pursuant to this chapter shall while so doing convey or grant or contract to convey or grant any interest in the business located at the place named on the permit, or an interest in the premise or any property therein, to any brewer, wholesaler or manufacturer of beer regulated by this chapter. No person holding and/or exercising a valid permit issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer, wholesaler or manufacturer of beer regulated by this chapter, except for the purchase of the beverages. No permit shall be granted under this chapter to any applicant who at the time of making application, is indebted or financially obligated to any such brewer, wholesaler or manufacturer, except for the purchase of the beverages. (Ord. #2741, May 1994, as amended by Ord. #2900, Nov. 1997, Ord. #3033, May 2000, Ord. #3145, Oct. 2003, Ord. #3163, Jan. 2004, Ord. #3300, Aug. 2007, Ord. #3391, June 2010, and Ord. #3417, June 2011, replaced by Ord. #3442, June 2012, and amended by Ord. #3485, Oct. 2013)

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, parks, or other places of public gathering, or would otherwise interfere with the public health, safety, and



morals. For purposes of application of this section, in no event will an off premise permit be issued authorizing the sale of beer within one hundred fifty feet (150') of any church, public or private school, or city park. The distances shall be measured in a straight line<sup>1</sup> from the nearest point of any portion of the building from which the beer will be sold to the nearest point on the property line of the church, school, or park. This distance restriction shall not apply to any premises which is wholly separated from any church, public or private school, or city park by a state or federal road or highway having at least four (4) lanes for traffic. A turning lane shall not be considered one of the required four (4) lanes. "Building" for these purposes shall mean the walls that enclose a grocery store, drug store or convenience store, even though they may lie within a larger building such as in the case of a shopping center. The licensed premises within such building shall not have general access directly to or from other retail stores or shops within the center or other structure wherein the licensed premises is located. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or park if a valid permit had been issued to any business on that same location, unless beer is not sold, distributed or manufactured at that location during any continuous one (1) year period. "School" does not include private pre-school, private day care, home school or any institution of learning within the jurisdiction of the Tennessee Higher Education Commission as set forth in Tennessee Code Annotated, § 49-7-203. Issuance of a permit pursuant to this § 8-210 shall be subject to the provisions of § 8-207(5). No permit shall be denied on the basis of proximity to any facility described above if the application for the permit was duly filed and accompanied with the appropriate filing fee prior to commencement of the use of any facility described above for the purposes which would otherwise prohibit the issuance of the permit. (Ord. #2741, May 1994, as amended by Ord. #2900, Nov. 1997, Ord. #3042, Aug. 2000, Ord. #3145, Oct. 2003, and Ord. #3163, Jan. 2004, and replaced by Ord. #3300, Aug. 2007, and Ord. #3442, June 2012)

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 beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the business for which application is being made shall have been convicted of any violation of the laws against

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 625 S.W.2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue or any crime involving moral turpitude within the past ten (10) years. (Ord. #2741, May 1994, as amended by Ord. #2900, Nov. 1997, and replaced by Ord. #3442, June 2012)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer 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) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer on Sunday between the hours of 3:00 A.M. and 10:00 A.M. or between the hours of 3:00 A.M. and 8:00 A.M. on any other day.

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

(5) Allow on the premises an owner, co-owner, operator, proprietor, or employee to drink or be under the influence of any of the beverages regulated by this chapter.

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

(7) Make or allow any sale of beer to any person who appears, or would reasonably appear to be under the influence of any intoxicant whatsoever.

(8) Allow intoxicated person to loiter about his premises.

(9) Make or allow the sale of beer directly to the occupants of a vehicle or through "drive-through" windows.

(10) Provide for or allow any gambling or games of chance involving exchange of money on the premises, excepting activities authorized pursuant to the Tennessee Education Lottery Implementation Law codified at Tennessee Code Annotated, § 4-51-101, et seq.

(11) Knowingly or intentionally permit or allow any person to appear in the establishment or on the premises for which the permit was issued and to:

(a) Publicly or openly perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any other sexual acts prohibited by law;

(b) Publicly or openly engage in the actual or simulated touching with the hand, facial area or mouth, or caressing, or fondling of the breasts, buttocks, anus or genitals;

(c) Publicly or openly engage in the actual or simulated display to public view of any portion of the human male or female genitals, pubic area

or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(d) Publicly or openly wear or use any device or covering exposed to public view which simulates the display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(e) Employ, use or allow any person in the sale or service of food, wine, beer or other alcoholic beverages while such person is publicly or openly unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(f) Employ, use or allow the services of any hostess or other person to mingle with patrons while such hostess or other person is unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(g) Publicly or openly permit any person to use artificial devices or any inanimate objects to depict any prohibited activities described above; or

(h) For the owner of the property, or the owner of any business operated thereon, or any employee thereof to allow or permit any person to remain in or upon the premises who is exposing to public view any portion of the human male or female genitals, pubic area, buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state;

(i) Publicly or openly show films, videotapes, laser discs, CD ROMS, electronic reproductions or other visual reproductions that involve movement depiction of any of the following:

(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(ii) Any person being touched, caressed, or fondled on the breasts, buttocks, anus or genitals;

(iii) Scenes wherein the person displays the vulva, the anus or the genitals;



(iv) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(j) Nothing contained in this section shall be construed to prohibit persons of either sex from engaging in swimming or related activities while clad in attire customarily worn in the community for such purpose;

(k) Nothing contained in this section shall be construed to prohibit the broadcast or display of any television program subject to regulation by the Federal Communications Commission of the United States on the permitted premises. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, amended by Ord. #2911, Jan. 1998, Ord. #3173, March 2004, Ord. #3300, Aug. 2007, Ord. #3356, Feb. 2009, and Ord. #3391, June 2010, and replaced by Ord. #3442, June 2012)

8-213. Suspension and revocation of beer permits. Subject to the provisions of The Tennessee Responsible Vendor Act codified at Tennessee Code Annotated, § 57-5-601, et seq., the beer 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. The beer board is authorized to revoke a beer permit for any of the reasons which would disqualify an applicant in the first instance.<sup>1</sup> However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the chief of police or by any member of the beer board. When a permit is revoked by the beer board, a new permit for the sale of beer on the same premises shall not be issued for one (1) year following the final effective date of the revocation. However, the board may, in its discretion, issue a new permit on the same premises before the expiration of the one (1) year period if the individual applying for the permit is not the original holder of the permit or the agent of the original holder of the permit. Revocations do not stay with the property when the property changes hands.

8-214. Civil penalty in lieu of suspension. Subject to the provisions of Tennessee Code Annotated, § 57-5-601, et seq., the beer 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 dollars (\$2,500.00) for each offense of making or permitting to be made any sales to persons under twenty-one (21) years of age, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for

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<sup>1</sup>See Midgett v. Smith, 591 S.W.2d 765 (Tenn. 1970) with the property when the property changes hands. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, amended by Ord. #3300, Aug. 2007, and replaced by Ord. #3442, June 2012)

any other offense. The amount of the civil penalties shall be governed by Tennessee Code Annotated §57-5-108 and if the amounts are modified, the Tennessee statute shall control. 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. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, amended by Ord. #3300, Aug. 2007, and Ord. #3391, June 2010, and replaced by Ord. #3442, June 2012)

8-215. Open beverage containers prohibited. It is unlawful for any person to possess open cans, bottles, or containers of beer in motor vehicles in the city or upon the public streets, sidewalks, or other public places in the city, not otherwise permitted by this chapter. There shall be rebuttable presumption that open containers of alcoholic beverages found in a motor vehicle, not within the physical possession of any individual, are in the possession of the driver of the vehicle. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-216. Signage required. Pursuant to Tennessee Code Annotated §57-5-301(f), permit holders shall post signs on the premises informing customers of the permit holder's policy against selling beer to underage persons. The signs shall be not less than eight and one half inches by five and one half inches (8 ½ " x 5 ½"), and shall contain the following language: "IF YOU AREN'T 21 AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER LICENSE."

8-217. Limitation on permits issued. The beer board shall not issue permits for beer sales that would result in the number of permits in effect numbering more than one hundred and fifty (150). Businesses which may be annexed, and which possess a valid beer license at the time of their annexation; and businesses which had been issued a valid permit which is existing at the time of the final passage of the ordinance comprising this chapter, but which experience a change of control (ownership) such as would require application for issuance of a new permit, shall not be denied a permit on the basis of the limitation of the number of permits to be issued by the city. (Ord. #2900, Nov. 1997, as replaced by Ord. #3442, June 2012)

8-218. Adoption of the Tennessee Responsible Vendor Act. There is hereby adopted and incorporated herein by reference the Tennessee Responsible Vendor Act, codified in Tennessee Code Annotated, § 57-6-601, et seq. Any provisions of title 8, chapter 2 of the municipal code in conflict with the provisions of the Act are hereby repealed. (as added by Ord. #3300, Aug. 2007, and replaced by Ord. #3442, June 2012)

## CHAPTER 3

### INTOXICATING LIQUORS/LIQUOR-BY-THE-DRINK

#### SECTION

8-301. Definitions of “alcoholic beverages.”

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the city clerk.

8-305. Concurrent sales of liquor by the drink and beer.

8-301. Definitions of “alcoholic beverages”. As used in this chapter, unless the context indicates otherwise, “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 or beer as defined in Tennessee Code Annotated §57-5-101. Notwithstanding any provision to the contrary in this chapter, “alcoholic beverage” or “beverage” also includes any product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any infused product.

8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated Title 57, Chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Morristown, Tennessee. It is the intent of the City Council that the said Tennessee Code Annotated Title 57, Chapter 4, inclusive, shall be effective in Morristown, Tennessee, the same as if said code sections were copied herein verbatim.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated §57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated §57-4-301, for the city general fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the city alcoholic beverages for consumption on the premises where sold.

8-304. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the city shall remit annually to the city clerk the appropriate tax described in section 8-103 hereof. Such payment shall be remitted within thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of

ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

8-305. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the city, pursuant to Tennessee Code Annotated Title 57, Chapter 4, shall, notwithstanding any other provision contained in the Morristown City Code, qualify to receive a beer permit from the city.

## CHAPTER 4

### WINE SALES IN RETAIL FOOD STORES

#### SECTION

8-401. ~~Application of this chapter.~~

8-402. Definitions.

8-403. Adoption of state law.

8-404. Issuance of retail food store wine license.

8-405. Certificate of compliance.

8-406. Issuance of certificate of compliance; appeal.

8-407. Issuance, renewal, suspension, and termination of retail food store wine license.

8-408. Regulation of sales.

8-402. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory:

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

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

8-403. Adoption of state law. There is hereby adopted and incorporated herein by reference the applicable statutes on Retail Food Store Wine Sales, codified in Tennessee Code Annotated §57-3-801, et seq.

8-404. Issuance of retail food store wine license. Any person, partnership, limited liability company or corporation desiring to sell wine to patrons or customers within the premises of a retail food store, in sealed packages only, and not for consumption on the premises, shall make application to the Alcoholic



Beverage Commission for a retail food store wine license. This application shall comply with all the terms and conditions set forth in Tennessee Code Annotated §57-3-801, et seq. The City shall not be permitted to limit the number of retail food store wine licenses issued within the City's jurisdiction.

8-405. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state Alcoholic Beverage Commission, the mayor or a majority of the city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. An applicant or applicant group for a retail food store wine license shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city administrator may require:

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

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

(3) That the applicant or applicants have complied with this chapter and the applicable state laws on retail food store wine sales.

8-406. Issuance of certificate of compliance; appeal. A failure on the part of the issuing authority to grant or deny the applicant's request for the certificate of compliance within sixty (60) days of the written application shall be deemed a granting of the certificate. If an applicant is denied a certificate of compliance, the applicant may seek review of such denial by instituting an action in Chancery Court within sixty (60) days of the denial.

8-407. Issuance, renewal, suspension, and termination of retail food store wine license. The issuance, renewal, suspension, and termination of retail food store wine licenses and the regulation of and operation by such license holders shall be governed by Tennessee Code Annotated §57-3-201, et seq., except where Tennessee Code Annotated §57-3-801, et seq. expressly states otherwise.

8-408. Regulation of sales. (1) Hours of sales on weekdays. Retail food store wine licensees shall not engage in the sale of wine, except between the hours of 8:00 A.M. and 11:00 P.M. on weekdays and Saturdays.

(2) Sales on Sundays and holidays. No retail food store wine licensee shall sell or give away any wine between 11:00 P.M. on Saturday and 8:00 A.M. on the

following Monday of each week. No retail food store wine licensee shall sell or give away wine on the following holidays: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

(3) Sales to minors. No retail food store wine licensee, or any employee thereof, shall sell or give away wine to minors. Prior to making a sale of wine for off-premises consumption, the adult consumer must present to the license holder or any employee of the license holder a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the license holder that includes the photograph and birth date of the adult consumer attempting to make a wine purchase. Persons exempt under state law from the requirement of having photo identification shall present identification that is acceptable to the license holder. The license holder or employee shall make a determination from the information presented whether the purchase is an adult. In addition to the prohibition of making a sale to a minor, no sale of wine for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the license holder or any employee of the license holder in a face-to-face transaction; however, it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification.

(4) Keeping an unsealed bottle or container. No retail food store wine licensee shall keep, or permit to be kept upon his premises, wine in any unsealed containers or bottles.

(5) Sales to persons intoxicated. No retail food store wine licensee shall sell or give away wine to any person who is intoxicated, nor shall any retail food store wine licensee sell or give away wine to any person accompanied by a person who is intoxicated.

(6) Sales on credit. No retail food store wine licensee shall sell, deliver, or cause, permit, or procure to be sold or delivered, wine on credit.

(7) Wine tastings. No retail food store wine licensee shall conduct tastings of wine on the premises of the retail food store.

(8) Consumption on premises. No wine shall be sold for consumption, or consumed, on the premises of the retail food store, except that a retail food store wine licensee may also hold a license to sell alcoholic beverages for consumption on premises pursuant to Tennessee Code Annotated §57-4-101, et seq., provided that the premises of the on-premises licensee shall be separate and distinct from the premises of the retail food store and the business of the on-premises licensee shall be operated separately and distinctly from the operation of the business of the retail food store wine licensee.

(9) Public display and public drinking prohibited. It shall be unlawful for any person to publicly drink wine or publicly display any bottle or container of wine on any street or sidewalk, on any school ground or in any park, theatre, stadium, or school."



This ordinance shall take effect upon second and final reading, the public welfare requiring same.

PASSED ON FIRST READING THIS THE 15<sup>TH</sup> DAY OF MARCH, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 5<sup>TH</sup> DAY OF APRIL, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY ADMINISTRATOR

ORDINANCE NO. 3545

BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 13, CHAPTER 3 [TREE ORDINANCE] OF THE MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN, TENNESSEE, THAT TITLE 13, CHAPTER 3 [TREE ORDINANCE] OF THE MUNICIPAL CODE IS AMENDED AS FOLLOWS:

CHAPTER 3

TREE ORDINANCE

Title 13, Chapter 3. Tree Ordinance is deleted in its entirety and substituted therefore is the following:

Sec. 13-301. - Tree ordinance.

The purpose of this tree ordinance is to provide a mechanism for the management of trees and woody vegetation in the city. Since adoption of an ordinance is one of the requirements for Tree City USA recognition, the city hereby adopts this ordinance in order to establish guidelines for tree planting, cutting and care in the city.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-302. - Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

American Nurseryman Standards means the standards related to size and planting for newly planted landscaping materials as referenced in *The American Standard for Nursery Stock* prepared by the American Nursery and Landscape Association.

City forester means a city employee responsible for the city's tree program.

Crownsread means the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.

Drip line means all points directly underneath the end of the branches.

Mulch means a layer of organic materials placed on the surface of the soil around plants to retain moisture, prevent the growth of weeds, and to hold the soil in place or aid plant growth.

Private tree means a tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.

Pruning means selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.

Public tree means a tree growing in an area owned by the community, including parks, public buildings, and other areas to which the public has free access.

Public utility means that section of local government in charge of electrical, water, sewer, natural gas, telephone or cable television distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.

Shrub means a self-supporting woody plant, growing 18 inches to 15 feet in height at maturity and characterized by multiple stems and branches continuous from the base; usually not more than ten feet in height at its maturity. Shrubs may be deciduous or evergreen.

Street tree means a tree growing within a public right-of-way along a street, in a median or in a similar area in which the public right-of-way borders areas owned by private individuals.

Topping means arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

Tree means a woody plant with a single trunk or multiple trunk capable of growing to a height of 15 feet or more.

Tree sizes means:

- (1) Small tree. A tree that grows up to 25 feet in height.
- (2) Medium tree. A tree that grows between 25 feet and 45 feet in height.
- (3) Large tree. A tree that grows greater than 45 feet in height.

Utility easement means an easement conveyed, granted or dedicated for utility purposes (stormwater, wastewater, electrical, water systems, etc.).

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

#### Sec. 13-303. - Administration.

The city administrator shall be responsible for carrying out this chapter:

- (1) Creation of a tree board. There is hereby created a tree board for the city, which shall consist of 13 members, five members at large who are citizens and residents of the city or the city's urban growth boundary and one city council member that shall be appointed by the mayor with the approval of city council, and seven standing members of the board which shall include the Morristown Public Works Director, the Morristown Parks and Recreation Director, the city administrator or his or her designee, a Morristown Utility Systems representative, a representative from the local state division of forestry, a representative from the state soil conservation service, and a representative from the local Keep American Beautiful affiliate or their designated representative.
- (2) Term of office. Appointed members shall serve three-year terms, except the first board which will have two members appointed for one year and three members appointed for two years. In the event that a vacancy shall occur during the term of any member, that member's successor shall be appointed for the unexpired portion of the term. No member shall serve more than two successive terms.

- (3) Operation. The board shall choose its own officers, make its own administrative rules and regulations, and keep a record of its proceedings. Copies of the minutes shall be available to the governing body after each tree board meeting. Each board member or his/her duly appointed designee shall have a voting privilege on any issue that may come before the board to vote. The voting shall carry or fail by simple majority of those present and casting votes. The results of voting shall be recorded in the minutes of such meeting.
- (4) Duties and responsibilities. The duties of the tree board shall include, but not be limited to the following:
  - a. Promote proper tree pruning procedures;
  - b. Coordinate tree-related activities;
  - c. Conduct an Arbor Day ceremony;
  - d. Provide tree information to the community;
  - e. Maintain a recommended tree list for the community;
  - f. Recognize groups and individuals completing tree projects;
  - g. Coordinate publicity concerning trees and tree programs;
  - h. Coordinate donations of trees or money to purchase trees;
  - i. Hear citizen concerns regarding tree problems during scheduled meetings;
  - j. Perform other tree related duties and opportunities that arise from time to time.

The tree board may consult with arborists, foresters and others with specific expertise in the subject area when performing their duties and responsibilities. Any compensation or contracts for services performed by such experts or professionals shall be approved by the city council.

- (5) Compensation. Members of the board shall serve without compensation.
- (6) Review by city council. The city council shall have the right to review the conduct and acts of the tree board. Any person may appeal any ruling of the tree board to the city council who may hear the matter and make a final decision.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

#### Sec. 13-304. - Tree planting.

Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The tree board will provide information about species, planting techniques, and placement guidelines when requested by residents in conformance with current American Nurseryman Standards (ANSI).

- (1) Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be recommended by the tree

board, and contained in rules and regulations adopted by the board as well as current ANSI standards.

- (2) Size. All nursery stock planted on public property will conform to the most current ANSI nursery standards.
- (3) Grade. Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch.
- (4) Spacing. Tree spacing shall be in accordance with mature spread.
- (5) Planting near existing objects. Trees shall not be planted within proposed or existing utility easements. In street plantings, no tree may be planted closer than ten feet to a fire hydrant, or utility pole or street light, 15 feet to a driveway/street intersection, or 30 feet from a street/street intersections as defined by sight-distance triangle guidelines. When planting between sidewalks and curbs, six feet between curb and sidewalk is the minimum distance required for small trees, eight feet for medium trees, and ten feet for large trees.
- (6) It is the responsibility of the tree planter to verify location of all utilities and their easements within the vicinity of the planting site in order to avoid personal injury or damage to the utilities.
- (7) Planting techniques. Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 12 inches larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously with 10% of the root ball remaining above grade. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer which may be added if the tree board deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing affected by the auger. Trees may be guyed in windy areas, or other areas where support is determined necessary by the tree board. All guy wires shall be removed within 18 months.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

#### Sec. 13-305. - Tree care.

- (a) The practice of tree topping, except as the first stage of tree removal, is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut (three-cut method) to prevent excessive peeling of the bark, followed by cutting the remaining curb.
- (b) Tree maintenance rules and regulations may address pruning, fertilizing, watering, insect and disease control or other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk hazard trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the tree board. Tree care may be accomplished by city personnel or by contract with commercial tree care companies.

- (c) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information in a timely manner to residents about all aspects of tree care including the latest techniques and procedures currently being practiced.
- (d) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where practicable, the utility shall undertake a program of replacing removed trees with appropriate replacement tree species or cultivars recommended by the tree board.
- (e) Grade changes and trenching within the crownsread (ends of branches) of public trees should be conducted in such a way as to minimize root system damage. Owners of private trees are encouraged to consult the tree board before proceeding with these activities.
- (f) The tree board may recommend to the appropriate city department when trees in public areas need care such as pruning, fertilization or treatment.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

**Sec. 13-306. - Tree removal.**

- (a) Dead, diseased and dying trees that pose a safety or health risk to residents, utility lines, service lines or to other trees shall be removed in a timely manner. This section applies to public trees, but it is recommended for private trees as well. The tree board will make the risk determination for public trees.
- (b) Tree removal to ground level is considered part of the public tree removal process.
- (c) Sprout control following tree removal will be accomplished by mechanical or chemical means. Any chemical used in sprout control shall be registered with the environmental protection agency and used according to the manufacturer's specifications.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

**Sec. 13-307. - Protection from construction, development and land use changes.**

The city maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, as it pertains to commercial and residential development, the city may adopt regulations requiring developers and builders to create tree impact plans prior to removal of any tree from project sites. The regulations adopted by the city may further require minimum tree densities for different classes or types of developments, and developers/builders may be required to plant trees to meet such density requirements. The tree board will assist the city in drafting the regulations to be adopted, or by providing recommendations for regulations which should be adopted. Regulations adopted by the city may be incorporated into the subdivision regulations, to be enforced by the planning commission, or may be incorporated into the zoning ordinance, to be enforced by the board or official having authority over zoning issues.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

PASSED ON FIRST READING THIS THE 15<sup>TH</sup> DAY OF MARCH, 2016.

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MAYOR

ATTEST:

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CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 5<sup>TH</sup> DAY OF APRIL,  
2016.

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MAYOR

ATTEST:

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CITY ADMINISTRATOR



**RESOLUTION NO. \_\_\_\_\_  
BEING A RESOLUTION OF THE CITY OF MORRISTOWN,  
TENNESSEE APPROVING THE CIVIL SERVICE BOARD'S  
AMENDMENTS TO ITS PUBLIC SAFETY QUALIFICATIONS AND  
STANDARDS FOR ENTRY LEVEL AND PROMOTION BOOKS**

Be it resolved by the City Council for the City of Morristown, Tennessee that the amendments to the Public Safety Qualifications and Standards for Entry Level (Green Book) and the Public Safety Qualifications and Standards for Promotion (Orange Book) proposed by and approved by the City of Morristown Civil Service Board are hereby approved and ratified by the City Council for the City of Morristown, Tennessee.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Gary Chesney, Mayor

ATTEST:

\_\_\_\_\_  
City Administrator, Anthony Cox

# CIVIL SERVICE BOARD

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P. O. Box 1499 • MORRISTOWN, TN 37816

March 29, 2016

Mayor & City Council  
City of Morristown  
100 W 1<sup>st</sup> N Street  
Morristown, TN 37814

Dear Mayor & Council,

On behalf of the Civil Service Board, we would like to request your approval to make a couple important changes to the Public Safety Qualifications and Standards for Entry Level (Green Book). As you are aware, the Civil Service Act of the City of Morristown requires that the Morristown City Council approve any changes made to the Green Book.

At the February 2016 meeting the Civil Service Board unanimously approved the following recommendations: note: highlighted areas to be added

Attached you will find a draft of the proposed changes. With your approval, our staff can make the corrections to the Green Book and get them re-printed.

Thank you for your attention to this matter.

Sincerely,

Lee Parker  
Chairman

Otis Stubblefield  
Vice-Chairman

Mike Minnich  
Secretary

City Council

Gary Chesney, Mayor

Dennis Alvis

Kay Senter

Bob Garrett

Tommy Pedigo

Chris Bivens

Ken Smith

Civil Service Board

Lee Parker, Chairman

Otis Stubblefield, Vice-Chairman

Mike Minnich, Secretary

Adopted by City Council on November 5, 2007

Revised by City Council on March , 2016

## Section 1

# POLICE DEPARTMENT

### 9. Military Service

Applicants must have at least 180 days of active duty time to in order to qualify. If applicant previously served in the military, that applicant must have received a discharge other than a dishonorable or bad conduct discharge. Commissioned officers must not have received a dismissal from the military. If the applicant is currently serving in the National Guard or Reserves proof of status must be provided. Applicants whose discharge and/or military service would prevent them from obtaining P.O.S.T. certification will be deemed ineligible for employment as a police officer. Any entry level candidate who is in the military and is deployed before completing all aspects of the test requirements will have the option, upon his/her return, to accept the points earned and continue with the remainder of the test process within 180 days or begin the process anew.

## Section 2

# FIRE DEPARTMENT

### 9. Military Service

If applicant previously served in the military, that applicant must have received a discharge other than a dishonorable or bad conduct discharge. If the applicant is currently serving in the National Guard or Reserves, proof of status must be provided. Any entry level candidate who is in the military and is deployed before completing all aspects of the test requirements will have the option, upon his/her return, to accept the points earned and continue with the remainder of the test process within 180 days or begin the process anew.

# CIVIL SERVICE BOARD

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P. O. Box 1499 • MORRISTOWN, TN 37816

March 29, 2016

Mayor & City Council  
City of Morristown  
100 W 1<sup>st</sup> N Street  
Morristown, TN 37814

Dear Mayor & Council,

On behalf of the Civil Service Board, we would like to request your approval to make a couple important changes to the Public Safety Qualifications and Standards for Promotion (Orange Book). As you are aware, the Civil Service Act of the City of Morristown requires that the Morristown City Council approve any changes made to the Orange Book.

At the February 2016 meeting the Civil Service Board unanimously approved the following recommendations: **note: highlighted areas to be added**

Attached you will find a draft of the proposed changes. With your approval, our staff can make the corrections to the Orange Book and get them re-printed.

Thank you for your attention to this matter.

Sincerely,

Lee Parker  
Chairman

Otis Stubblefield  
Vice-Chairman

Mike Minnich  
Secretary



# Police Department

## Section 1 – Position Qualifications

### A. Qualifications for Promotion within the Police Service

#### 4. Police Sergeant

An applicant for promotion to the classification level of Police Sergeant must meet entry level requirements and be P.O.S.T. certified. The applicant must also have ~~three (3)~~ four (4) years of experience as defined in Section 2-A-2 within the City of Morristown Police Department or another professional department consisting of 45 or more classified members.

## Section 2 - Selection Criteria Description and Associated Weights

### A. Classified Services Selection Criteria

#### 3. Education

Education is defined as the act of learning through a course of study at an accredited institution of higher learning. Points not to exceed 100 shall be awarded for education. In order to receive credit for education points, one must obtain documentation before the first day of the month of testing. All documentation must be turned in in advance, not after.

## Section 5 - Special Provisions Regarding Military Duty

Any promotional candidate who is in the military and is deployed before completing all aspects of the testing requirements will have the option, upon his/her return, to accept the points earned and continue with the remainder of the test process within 180 days or begin the process anew.

# Fire Department

## Section 5 - Special Provisions Regarding Military Duty

Any promotional candidate who is in the military and is deployed before completing all aspects of the testing requirements will have the option, upon his/her return, to accept the points earned and continue with the remainder of the test process within 180 days or begin the process anew.~~ew.~~

# Memorandum

**To:** Morristown City Council

**From:** Richard DesGroseilliers, GISP

**Date:** March 18, 2016

**Subject:** Contract with Whaley and Sons, Inc. for Construction Services for the Safe Routes to School Project

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This is for the approval of Construction Services contract with Whaley and Sons, Inc. for the Safe Routes to School project. The bid package has received TDOT's concurrence, dated March 16, 2016. The project will after the FY2015-2016 School Calendar Year has ended, and it is anticipated to be completed within 2 months. 1 inspector in the field will be sufficient for this construction project.

The breakdown of the \$93,715.00 funds will be:

total	federal funds	Local match
\$93,715.00	\$93,715.00	\$0.00

Staff recommends approving the contract amendment as submitted.

Rich DesGroseilliers, GISP, MTPO Coordinator  
100 W 1<sup>st</sup> N St  
Morristown, TN 37816-1499  
[richd@mymorristown.com](mailto:richd@mymorristown.com)  
Thank you for your time and cooperation.

## Rich DesGroseilliers

---

**From:** Zachary.Dufour@kimley-horn.com  
**Sent:** Wednesday, March 16, 2016 2:33 PM  
**To:** Rich DesGroseilliers  
**Subject:** FW: Bid Award Concurrence - PIN 118144.00, Morristown SRTS, Hamblen County

Rich,  
Can you get this award on the Council schedule? Let me know when this will happen so we can work on getting all of the contracts and documents in place following that official approval. Thanks.

Zac Dufour, P.E.  
**Kimley-Horn** | 214 Oceanside Drive, Nashville, TN 37204  
Direct: 615-564-2709 | Mobile: 615-351-3634 | Main: 615 564 2701  
Connect with us: [Twitter](#) | [LinkedIn](#) | [Facebook](#) | [Instagram](#)

Please note our new address – For directions click [here](#)

**From:** Donovan Chumbley [<mailto:Donovan.Chumbley@tn.gov>]  
**Sent:** Wednesday, March 16, 2016 1:13 PM  
**To:** [richd@mymorristown.com](mailto:richd@mymorristown.com)  
**Cc:** David Royster <[David.Royster@tn.gov](mailto:David.Royster@tn.gov)>; Benjamin Price <[Benjamin.Price@tn.gov](mailto:Benjamin.Price@tn.gov)>; Erin Brake <[Erin.Brake@tn.gov](mailto:Erin.Brake@tn.gov)>; Mary Howard <[Mary.Howard@tn.gov](mailto:Mary.Howard@tn.gov)>; Dufour, Zachary <[Zachary.Dufour@kimley-horn.com](mailto:Zachary.Dufour@kimley-horn.com)>  
**Subject:** Bid Award Concurrence - PIN 118144.00, Morristown SRTS, Hamblen County

Hello Rich,

I am pleased to announce that TDOT has concurred with Whaley & Sons, Inc. (\$93,715.00) as the lowest responsive bidder for PIN 118144.00 Morristown Safe Routes To School. You are hereby approved to inform them they are the lowest responsive bidder and to set up the mandatory pre-construction meeting. This pre-construction meeting must be held in a location with a landline telephone so that TDOT personnel can attend by telephone.

At this mandatory pre-construction meeting you are required to have in attendance a representative from TDOT's Materials & Test Division. Please David Royster at (865) 594-2655 or via e-mail at [David.Royster@tn.gov](mailto:David.Royster@tn.gov). He will need a copy of the final design plans, the detailed cost estimate, and the awarded contractor's bid book before the pre-construction meeting. Also, you will need to invite a representative from the TDOT Region 1 Construction Office to the pre-construction meeting. Ben Price at the Region 1 Office can be reached at (865) 594-2322 or via e-mail at [Benjamin.Price@tn.gov](mailto:Benjamin.Price@tn.gov). He needs a copy of the final design plans, the detailed cost estimate, and the awarded contractor's bid book prior to the pre-construction meeting. In addition, please also contact Erin Brake with the Headquarters Materials and Tests at (615) 350-4116 or via e-mail at [Erin.Brake@tn.gov](mailto:Erin.Brake@tn.gov). Each of these contacts needs a minimum 14 day notice in advance of the pre-construction meeting.

Electronic PDFs that I must have for my information include:

1. The letter that is sent to the contractor advising them they are the successful bidder.
2. The notice to proceed to the contractor and the date the contractor actually starts work on the project site.
3. The contract between the City and the contractor.
4. Please see the Local Programs homepage for the required DBE forms on the project.

LP NIC Reporting: You must log in at <https://apps.tn.gov/tdotlp/> and submit the requested information to meet federal reporting requirements. For assistance with logging in call Tennessee.gov at 1-866-886-3468. When

you call, please have available your User Name, Federal Project Number, and your Agency Name. Should you have difficulties reaching Tennessee.gov via phone call, please send an e-mail to [support@egovtn.org](mailto:support@egovtn.org). Include in this e-mail a phone number and contact name.

Please let me know if you have any questions.

Thank you,  
Donovan Chumbley



**Donovan Chumbley** | Transportation Program Monitor  
*Region 2 and Safe Routes To School*  
Local Programs Development Office  
James K. Polk Building, 6<sup>th</sup> Floor  
505 Deaderick Street, Nashville, TN 37243  
p. 615-532-3567 f. 615-741-9673  
[Donovan.Chumbley@tn.gov](mailto:Donovan.Chumbley@tn.gov)  
[tn.gov/tdot](http://tn.gov/tdot)  
<http://www.tn.gov/tdot/section/local-programs>



**Donovan Chumbley** | Transportation Program Monitor  
*Region 2 and Safe Routes To School*  
Local Programs Development Office  
James K. Polk Building, 6<sup>th</sup> Floor  
505 Deaderick Street, Nashville, TN 37243  
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[Donovan.Chumbley@tn.gov](mailto:Donovan.Chumbley@tn.gov)  
[tn.gov/tdot](http://tn.gov/tdot)  
<http://www.tn.gov/tdot/section/local-programs>

Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO)  
Morristown, TN – Jefferson City, TN – White Pine, TN – Hamblen County, TN – Jefferson County, TN

**NOTICE TO PROCEED**

TO: Whaley and Sons, Inc..  
3909 Snyder Rd  
Kodak, TN 37764

Dated: March 18, 2016

Project: Morristown, TN  
PIN 118144.00 Federal SRTS-9113(19); State: 32LPLM-F3-042  
Safe Routes To School Project Lincoln Heights Elementary and Middle Schools

You are hereby notified to commence work in accordance with the AGREEMENT executed by you on April 5, 2016.

The effective date of the contract will be May 23, 2016. The Contract must be completed by July 25, 2016.

You are required to return an acknowledged copy of this NOTICE TO PROCEED to the OWNER (See Below).

By: City of Morristown (Owner)

\_\_\_\_\_  
Mayor

**ACCEPTANCE OF AWARD**

By: Whaley and sons, Inc. (Contractor)

\_\_\_\_\_  
(Authorized Signature)

Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO)  
Morristown, TN – Jefferson City, TN – White Pine, TN – Hamblen County, TN – Jefferson County, TN

## NOTICE OF AWARD

TO: Whaley and Sons, Inc..  
3909 Snyder Rd  
Kodak, TN 37764

Dated: March 18, 2016

Project: Morristown, TN  
PIN 118144.00 Federal SRTS-9113(19); State: 32LPLM-F3-042  
Safe Routes To School Project Lincoln Heights Elementary and Middle Schools

You are notified that your Bid dated February 23, 2016, for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a contract for Total Work as set forth in the Contract Documents.

The Contract Price of your contract is Ninety-three thousand, seven hundred-fifteen and 00/100 dollars (\$93,715.00).

Copies of the proposed Contract Documents will be delivered separately, for execution of the Contract.

By: City of Morristown (Owner)

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Mayor

## ACCEPTANCE OF AWARD

By: Whaley and Sons, Inc.

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(Authorized Signature)





## Morristown City Council Agenda Item Summary

**Date:** March 23, 2016

**Agenda Item:** Approval of Bid – Used Turf Mower

**Prepared by:** Joey Barnard

**Subject:** Used Turf Mower Bid

**Background/History:** The City of Morristown's Parks and Recreation department maintains sixteen (16) parks totaling over 21 acres of land. That maintenance includes the mowing and grooming of several athletic fields. With the approval of this bid and purchase of a turf mower, park staff will be able to more quickly and easily maintain athletic fields.

**Findings/Current Activity:** The bid was advertised in the *Citizen Tribune* on February 17, 2016 and on February 24, 2016. Additionally, the bid was posted to the City of Morristown's website and through Vendor Registry, an on-line bid facilitation website. The submission deadline was 2:00 PM on Thursday, March 3, 2016. We received two (2) responses.

**Financial Impact:** This expenditure was planned and appropriated in the 15-16 budget. Funds totaling \$23,000 have been appropriated. As summarized in the bid tabulation the bid submitted by Ladd's includes a mower that has fewer number of hours used than the mower submitted by Smith Turf & Irrigation. Bid specifications allowed for the inspection of both units and the Jacobsen mower submitted by Ladd's proved to be in better overall condition. The bid submitted by Ladd's totals \$21,000.

**Action options/Recommendations:** It is staffs' recommendation to accept the best bid submitted by Ladd's.

**Attachments:** Copy of the Bid Tabulation

City of Morristown  
Turf Mower-USED Bid  
Thursday, March 3, 2015 2:00 p.m.

Bidder	Ladd's	Smith Turf & Irrigation	
Specification Compliance	Does Not Fully Comply	Fully Complies	
Unit Description	Jacobsen LF3800	Toro RM5510D	
Mower Hours	1150	1772	
Total Unit Price	\$ 21,000.00	\$ 17,995.00	



## **Morristown City Council Agenda Item Summary**

**Date:** March 29, 2016

**Agenda Item:** Approval of Request for Proposal–Real Estate Agent/Broker Services

**Prepared by:** Joey Barnard

**Subject:** Real Estate Agent/ Broker Services

**Background/History:** Due to the fact that the City of Morristown will be exploring various options related to real property, it has been determined that it is in the City's best interest to secure a competent, professional real estate agent/broker. The City of Morristown will be assessing the real properties that it has been holding as investment properties. These various properties are reflected on the City of Morristown's financial statements at \$11.7 million. Additionally, it is foreseeable that the City will need the expertise in acquiring real property for various uses. The City of Morristown sought these services by issuing a Request for Proposals. Due to the complex nature of some of the commercial transactions, the City of Morristown utilized certifications, years of experience, and commercial book of business as selection criteria for broker/agent services.

**Findings/Current Activity:** The Request for Proposal was advertised in the *Citizen Tribune* on February 24, 2016 and on March 2, 2016. Additionally, the Request for Proposal was posted to the City of Morristown's website and through Vendor Registry, an on-line facilitation website. The submission deadline was 2:00 PM on Friday, March 18, 2016. We received one (1) response.

**Financial Impact:** The overall financial impact of the approval of the Request for Proposal cannot be determined at this time. The financial impact will be determined on a case-by-case basis as the properties are approved by City Council. The fee is to be determined on each transaction based on a percentage or an hourly rate. LeBel Commercial Reality's response to the Request for Proposal for fees are as follows: Percentage fee of 8% for transactions below \$300,000 and 6% for transactions at or above \$300,000; flat hourly fee of \$130 per hour.

**Action options/Recommendations:** It is staffs' recommendation to approve LeBel Commercial Reality as the broker/agent.

**Attachments:** None.

# Morristown Police Department

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ROGER OVERHOLT  
Chief of Police



## MEMORANDUM

To: Mayor Gary Chesney  
City Council

From: Chief Roger D. Overholt *RDO*

Date: March 30, 2016

Re: Entry Level Patrol Officer

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I am requesting to hire one entry level patrol officer at the April 5th council meeting. Attached is the current civil service roster of eligible candidates. This position is to backfill a current vacancy.

Thank you.

RDO/ll

# Morristown Police Department

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ROGER OVERHOLT  
Chief of Police



## MEMORANDUM

To: Mayor and City Council  
From: Chief <sup>RDC</sup>Roger D. Overholt  
Date: March 30, 2016  
Re: Entry Level Roster

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Russell Jones contacted Captain Christian Newman and stated that he had taken a job with the Nashville Metro Police Department and is not interested in a position with the Morristown Police Department at this time. Therefore, we will be able to make a choice from the top three candidates on the attached Civil Service Roster

RDO/II

# CIVIL SERVICE BOARD

P. O. Box 1499 • MORRISTOWN, TN 37816

## POLICE DEPARTMENT ENTRY-LEVEL ROSTER

Revised on March 8, 2016 to reflect recent testing, hiring and /or corrections.

	<u>RANK AND NAME</u>	<u>EXPIRES</u>
1	<del>Russell Jones</del>	<del>27-Feb-17</del>
2	Charles Story	28-Feb-17
3	Robert Bolden	28-Feb-17
4	Chris Lowe	30-Jun-16
5	Robert Brooks	30-Jun-16
6	Bobby Morgan	28-Feb-17
7	Zach Jones	28-Feb-17
8	Julian Monroe	28-Feb-17
9	Erick Simonds	28-Feb-17
10	Shannon Woods	30-Jun-16
11	Henry Russell	28-Feb-17
12	Austin Miller	30-Jun-16
13	Joey Maus	28-Feb-17
14	Corey Smith	30-Jun-16
15	Neal Conley	28-Feb-17
16	Jessey McDaniel	30-Jun-16
17	Joe Lawson	30-Jun-16
18	William Smith	28-Feb-17

For the Civil Service Board



Lee Parker, Chairman

3-8-16  
Date



# Morristown Police Department

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ROGER OVERHOLT  
Chief of Police



## MEMORANDUM

To: Mayor and City Council  
From: Chief Roger D. Overholt  
Date: March 30, 2016  
Re: Police Disciplinary Action

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Officer [REDACTED] has been found in violation of General Order 300.08 Code of Conduct by the Internal Affairs Division. After consultation with the city legal staff and the District Attorney.

I am requesting confirmation of the following disciplinary action:

Officer to receive suspension for 40 hours without pay. This suspension will be scheduled once confirmation is approved.

RDO/II