



APPLICATION FOR A CERTIFICATE OF COMPLIANCE FOR AN OFF-PREMISE CONSUMPTION RETAIL LIQUOR STORE

For a Certificate of Compliance, applicant is required to submit the following to the Town Clerk's office:

1. A completed application: typed, or printed in blue or black ink. If applicant is a partnership, LLC, or a corporation, Exhibit A of this application is required to be filled out by *each* partner, the general manager of the LLC, or by the president of the corporation.
2. A non-refundable application fee of Seven Hundred Fifty Dollars (\$750.00) payable to the Town of Smyrna.
3. Proof of agreement (i.e. lease agreement) with property owner for proposed retail site.
4. Certified financial statement.
5. The name of any person who will have an interest, directly or indirectly, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail license.
6. Business plan for proposed package liquor store.
7. Amount and source of funds to be used or invested.
8. If you employ an outside person or company to keep your books, please state the name and address of such person or company. You must execute a waiver to allow access to your books.
9. For any business(es) owned by applicant, please provide the last two years tax returns for each business.

Failure to answer any question correctly or to complete the entire application will be cause to deny this application.

Completed application must be submitted 14 (fourteen) days prior to the Packaged Liquor Board meeting on the first (1st) Tuesday of each month. Applications not received by close-off date shall be automatically placed on the following month's agenda for Board consideration.

The Town Clerk's office will submit the completed application to the Smyrna Police Chief for investigation and the Town Manager for review. Once these departments issue approval, the applicant shall appear before the Package Liquor Board to seek a recommendation from the Board to the Town Council for the issuance of a Certificate of Compliance.

The Town Council shall grant or deny the request for a Certificate of Compliance within sixty (60) days after the application is submitted to the Town Clerk.

APPLICATIONS ARE A MATTER OF PUBLIC RECORD WHEN FILED.

PLEASE READ THIS APPLICATION THOROUGHLY AND ANSWER ALL QUESTIONS COMPLETELY. FAILURE TO ANSWER ANY QUESTIONS CORRECTLY OR TO COMPLETE THE ENTIRE APPLICATION WILL BE CAUSE TO DENY THIS APPLICATION. IF THIS APPLICATION IS FOR A PARTNERSHIP, CORPORATION, OR LLC, EACH PARTNER, GENERAL MANAGER, OR PRESIDENT IS TO COMPLETE THE ATTACHED EXHIBIT A.

If additional space is needed, please use a separate sheet.

A. APPLICANT INFORMATION

(SUBMIT A SEPARATE SHEET FOR EACH APPLICANT. If a partnership, please attach as an exhibit a copy of the Partnership Agreement. If a corporation, please attach as an exhibit a copy of the Corporate Charter)

1. Full name: _____
2. Address: _____
3. Telephone #: _____ Date of Birth: _____
4. Social Security #: _____ Driver's License #: _____
5. Occupation: _____ Length of Time: _____
6. If employed, name and address of employer: _____

7. Are you a U. S. Citizen? Yes____ No ____

8. Please provide your TN Sales Tax Registration #: _____

9. If in business, please provide the following information:

Type of Business	Location	Taxpayer Identification #	Names associated with this Taxpayer Identification #

10. Please attach a list of the names of any person who will have an interest, directly or indirectly, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail license.

11. Do you currently have any indebtedness to the State of Tennessee and/or any municipality for any tax? Yes____ No ____ If answer is yes, please state the tax and the amount owed:

12. Have you ever been convicted of a felony within the last ten (10) years? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Final Disposition

13. Have you ever been convicted of any offense related to the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer within the last ten (10) years? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Final Disposition

14. Have you ever been convicted of a crime violating a drug or alcohol law or a crime involving physical violence within the last ten (10) years? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Final Disposition

15. Do you currently have any pending criminal charges? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Date of Arrest

16. Does any person having an interest in the proposed liquor store – whether proprietary interest, or by means of any loan, mortgage or lien – hold a public office, either appointive or elective; or are they a public employee, either at the national, state, or county level? Yes _____ No _____

If yes, please explain in detail: _____

17. Does any manufacturer, brewer or wholesaler have an interest in the proposed liquor store or building containing the proposed store? Yes _____ No _____

If yes, please explain in detail: _____

B. STORE INFORMATION

1. Name of proposed store: _____

2. Address of proposed store: _____

3. Name and Address of the Property Owner(s) where the proposed store will be located:

PLEASE ATTACH A COPY OF THE LEASE OR OTHER AGREEMENT BETWEEN YOU AND THE OWNER OF THE PREMISES ON WHICH YOU ARE APPLYING TO ESTABLISH A LIQUOR STORE. ALSO, ATTACH A NOTARIZED AFFIDAVIT THAT SUCH OWNER(S) OF THE PROPERTY HAS AGREED TO ALLOW A RETAIL LIQUOR STORE TO BE OPERATED ON THE PROPERTY UPON THE ISSUANCE OF A LICENSE.

4. Is the proposed location of the Liquor Store closer than five hundred (500) feet to any private residence, church or other religious institution, school or college, hospital, daycare, park, public library, or other place of public gathering; measured from the center of the main entrance of such structures and following the usual and customary path of pedestrian travel to the center of the main entrance of the proposed liquor store? Yes _____ No _____

5. Is the proposed location of the Liquor Store closer than five hundred (500) feet to any other retail liquor store, measured from the center of the main entrance of such structures and following the usual and customary path of pedestrian travel to the center of the main entrance of the proposed liquor store? Yes _____ No _____

C. FINANCIAL INFORMATION

Please attach the following financial information to this application:

1. Certified financial statement evidencing net worth in the amount of One Hundred Thousand Dollars (\$100,000.00)
2. Business plan for proposed package liquor store.
3. Amount of money invested or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the applicant does business, and the name of any person who is aiding the venture financially, either by a loan or endorsement.
4. If you employ an outside person or company to keep your books, please state the name and address of such person or company. You must execute a waiver to allow access to your books.
5. For any business(es) owned by applicant, please provide the last two years tax returns for each business.

D. OATH OF APPLICANT

- I have not been convicted of a felony within the last ten (10) years.
- I understand that it is unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensee, unless his interest in said business and the nature, extent, and character thereof shall appear on this application.
- I have received and reviewed a copy of Smyrna Municipal Code Title 8, Chapter 3 related to retail sales of alcoholic beverages. I will comply, and will ensure that any and all employed by the retail store for which I am applying will comply, with all of the applicable provisions of the Smyrna Municipal Code related to package liquor stores, as well as all other applicable federal and state laws, local ordinances and of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.
- I hereby authorize the Town of Smyrna to investigate my criminal history for the purpose of issuance of a Certificate of Compliance for a retail liquor license.

I verify that the foregoing statements, as well as the content of this application and all attachments, are true and accurate to the best of my knowledge and belief this the _____ day of _____, 20____.

Applicant's signature: _____

STATE OF TENNESSEE)

COUNTY OF RUTHERFORD)

Before me, the undersigned notary public, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and that such person executed this document this the _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

(For Office Use)

Date received by Clerk: _____

Date sent to Chief of Police and Town Manager: _____

Deadline for review from Chief of Police and Town Manager: _____

Date of Public Hearing before Package Liquor Board: _____

Application to:

Package Liquor Board: _____ **Approved** (date) _____ _____ **Denied** (date) _____

Town Council: _____ **Approved** (date) _____ _____ **Denied** (date) _____

Certificate of Compliance valid until: _____

Deadline for Applicant to apply for license from the Alcoholic Beverage Commission
(60 days from approval by Town Council) _____

Deadline for Applicant to have retail store in operation (12 months following the issuance
of the license by the Alcoholic Beverage Commission) _____



EXHIBIT A
PARTNER, STOCKHOLDER, PRESIDENT, OR GENERAL MANAGER ATTACHMENT

A. APPLICANT INFORMATION

1. Full name: _____
2. Address: _____
3. Telephone #: _____ Date of Birth: _____
4. Social Security #: _____ Driver's License #: _____
5. Occupation: _____ Length of Time: _____
6. If employed, name and address of employer: _____

7. Are you a U. S. Citizen? Yes____ No ____

8. If in business, please provide the following information:

Type of Business	Location	Taxpayer Identification #	Names associated with this Taxpayer Identification #

9. Do you currently have any indebtedness to the State of Tennessee and/or any municipality for any tax? Yes____ No ____ If answer is yes, please state the tax and the amount owed:

10. Have you ever been convicted of a felony within the last ten (10) years? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Final Disposition

11. Have you ever been convicted of any offense related to the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer within the last ten (10) years? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Final Disposition

12. Have you ever been convicted of a crime violating a drug or alcohol law or a crime involving physical violence within the last ten (10) years? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Final Disposition

13. Do you currently have any pending criminal charges? Yes ___ No ___

If answer is yes, complete the following:

Date	Charge	City/County/State of Arrest	Date of Arrest

B. OATH OF APPLICANT

- I have not been convicted of a felony within the last ten (10) years.
- I understand that it is unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensee, unless his interest in said business and the nature, extent, and character thereof shall appear on this application.
- I have received and reviewed a copy of Smyrna Municipal Code Title 8, Chapter 3 related to retail sales of alcoholic beverages. I will comply, and will ensure that any and all employed by the retail store for which I am applying will comply, with all of the applicable provisions of the Smyrna Municipal Code related to package liquor stores, as well as all other applicable federal and state laws, local ordinances and of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.
- I hereby authorize the Town of Smyrna to investigate my criminal history for the purpose of issuance of a Certificate of Compliance for a retail liquor license.

I verify that the foregoing statements, as well as the content of this application and all attachments, are true and accurate to the best of my knowledge and belief this the _____ day of _____, 20____.

Applicant's signature: _____

STATE OF TENNESSEE)

COUNTY OF RUTHERFORD)

Before me, the undersigned notary public, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and that such person executed this document this the _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

EXHIBIT A
TITLE 8

CHAPTER 3
RETAIL SALES OF ALCOHOLIC BEVERAGES

SECTION

- 8-301. Packaged liquor board established.
- 8-302. Powers.
- 8-303. Members.
- 8-304. Terms.
- 8-305. Administration.
- 8-306. Officers.
- 8-307. Meetings.
- 8-308. Record of proceedings to be kept.
- 8-309. Requirements for quorum and action.
- 8-310. Board not empowered to obligate town or incur liability.
- 8-311. Subject to law and regulations.
- 8-312. Terms defined.
- 8-313. Certificate of compliance required prior to issuance of license; investigation fee; renewal.
- 8-314. Applicant to agree to comply with laws.
- 8-315. Action on application.
- 8-316. Full and accurate disclosure required.
- 8-317. Restrictions as to locations of retailers.
- 8-318. Proof of net worth by applicant; required documents.
- 8-319. Restrictions on license holders and employees.
- 8-320. Display of licenses.
- 8-321. Transfer of licenses.
- 8-322. Only one establishment to be operated by retailer.
- 8-323. Sales for consumption on premises.
- 8-324. Entrances.
- 8-325. Municipal inspection fee.
- 8-326. Regulations for purchase and sale of intoxicating liquors.
- 8-327. Regulation of retail sales.
- 8-328. Ineligibility for beer permit holders.
- 8-329. Federal license, effect of.
- 8-330. Revocation procedures.
- 8-331. New license after revocation.
- 8-332. Manufacturing prohibited.
- 8-333. Visible possession of unsealed containers on streets, etc., prohibited.
- 8-334. Chapter does not apply to beer.
- 8-335. Violations.

8-301. Packaged liquor board established. There is hereby established a packaged liquor board for the Town of Smyrna, Tennessee.

8-302. Powers. The packaged liquor board shall have the power to and is hereby directed to regulate the selling, storing for sale, distributing for sale and manufacturing of retail sales of packaged liquor within the corporate limits of the Town of Smyrna in accordance with the provisions of this chapter. The packaged liquor board is authorized to make and establish reasonable bylaws, rules, and regulations as may be necessary for their own government and for the full and complete execution of their powers and duties. The packaged liquor board is hereby vested with all authority to recommend to the town council the issuance or denial of a certificate of compliance for purposes of compliance with the rules and regulations of the Tennessee Alcoholic Beverage Commission related to the issuance of a license to sell packaged liquor, council, as provided by the laws of the State of Tennessee and in accordance with the rules and procedures set forth in this chapter. "The packaged liquor board is hereby vested with authority to recommend to the town notices of violations of state and local law be forwarded to the Tennessee Alcoholic Beverage Commission for further investigation and action. The packaged liquor board shall operate in accordance with the provisions of this chapter in accordance with such other rules and procedures as may be promulgated by said board.

8-303. Members. The packaged liquor board shall be composed of five (5) members who shall be residents of the Town of Smyrna and who shall be appointed by a majority vote of the town council. All members of the packaged liquor board shall serve without compensation. Members may not serve more than eight (8) consecutive years on the board.

8-304. Terms.

(a) The terms of the members of the packaged liquor board shall be staggered to provide for continuity and experience on the board. The terms of the board shall be four (4) years each, except that the terms of the initial board shall be staggered in the following manner. Two initial board members shall be appointed for and serve for a period of three years; two initial board members shall be appointed for and serve for a period of two years; and one initial board member shall be appointed for and serve for a period of one year. In order to provide continuity and consistency with the appointment of member, the calculation of the initial board member terms shall begin on April 1, 2009, even if such actual appointment date is later than April 1, 2009.

(b) Members of the board may be removed by the town council for neglect of duty, conflict of interest, malfeasance in office, violation of the ethics ordinance, or other just cause, or for unexcused absence from more than three (3) consecutive meetings or more than five (5) non-consecutive meetings during the member's term of appointment. It is the duty of the Town of Smyrna staff representative to advise the town manager when removal is recommended or necessary based on the provisions herein. The decision of the town council will be final with no appeal. Board members who are unable to attend regular meetings are expected to tender

their resignation. Any vacancy shall be filled by the town council for the remainder of the unexpired term.

8-305. Administration. To facilitate its deliberations, the packaged liquor board shall be assisted by the town manager, and/or employees designated by the town manager.

8-306. Officers. The packaged liquor board shall annually elect a chairman from among its membership to preside over its deliberations. Likewise, the packaged liquor board shall annually elect a vice-chairman from among its membership to preside over the board's deliberations in the absence of the chairman. The town manager, or another employee designated by the town manager, shall be the ex-officio secretary of the packaged liquor board.

8-307. Meetings. The packaged liquor board shall hold regular monthly meetings at 5:00 p.m. on the first Tuesday of each month at town hall. If the meeting date falls on a town holiday, an alternative meeting date will be determined by the board. When there is business to come before the packaged liquor board, a special meeting may be called by the chairman provided he gives reasonable notice to all members. The packaged liquor board may adjourn a meeting at any time to another time and place. All meetings shall be open to the public.

8-308. Record of proceedings to be kept. The secretary shall make a record of the proceedings of all meetings of the packaged liquor 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 before the board; a copy of each motion or resolution presented; the vote of each member thereon; and the applications and all submissions of each packaged liquor request for certificate of compliance.

8-309. Requirements for packaged liquor board quorum and action. The attendance of at least a majority of the members of the board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present and voting if a quorum is constituted, except that there must be a minimum of two positive votes for approval of a recommendation to the town council for the issuance of a certificate of compliance.

8-310. Board not empowered to obligate town or incur liability. Notwithstanding anything that may be herein contained or implied to the contrary, the board shall not be empowered without express authority of the town council, to obligate the town in any way or to expend or incur liability for any sum of money, except as may be provided for in the yearly budgets and appropriations adopted by the town council.

8-311. Subject to law and regulations. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of the Town of Smyrna except in accordance with the provisions of Tennessee Code Annotated, title 57, and the rules and regulations promulgated thereunder, and as provided in this chapter.

8-312. Terms defined. Whenever used herein, unless context requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, as defined in § 57-5-101(b). Notwithstanding any provision to the contrary in this title, except for beer as defined in § 57-5-101b, "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 § 57-5-101(b) shall also be alcoholic beverages. Notwithstanding the provisions of this subdivision (a)(1)(A), products or beverages containing less than one half of one percent (.5%) alcohol by volume, other than wine as defined in this section, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to chapters 1-6 and 9 of Title 57 of Tenn. Code. Ann.

(2) "License" means the license issued pursuant to Tennessee Code Annotated, Title 57, Chapter 3, and "licensee" means any person to whom such license has been issued.

(3) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale. "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(4) "Manufacturer" means and includes a distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying, and operating a winery.

(5) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale. "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, Title 57.

(6) "Person" means any private individual, partnership, joint venture, corporation, or any other business entity or association.

(7) "Premises" means on the property owned, leased, or controlled by the licensee and so connected with the liquor business in which the licensee is engaged as to form a component or integral part of it, including but not limited to, the building and the parking areas surrounding it. "Premises" includes all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the

building in which the business is located and that are operated by the business identified in the permit.

(8) “Curb service” means all sales transacted outside of the building where the business is carried on. The intent of this provision being to insure that the sale and purchase of alcoholic beverages is transacted in a face-to-face meeting between the salesperson and the customer, with the customer outside of a motor vehicle and under such circumstances that the salesperson has a reasonable opportunity to determine if the customer is then in an intoxicated condition or is a minor.

(9) “Town” means the Town of Smyrna and any boards, commissions or executive and legislative bodies authorized to act on its behalf.

Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.

8-313. Certificate of compliance required prior to issuance of license; investigation fee; renewal.

(1) For the retail sale of alcoholic beverages, a license shall be required. As a condition precedent to the issuance of a retail license by the Alcoholic Beverage Commission, an applicant for a license shall first obtain a certificate of compliance from the town, as provided for in Tennessee Code Annotated §57-3-208. The application for a certificate shall be in writing on forms prescribed and furnished by the town clerk. Applications must be submitted fourteen (14) days prior to the scheduled meeting of the packaged liquor board. Applications submitted later than fourteen (14) days prior to the scheduled meeting of the packaged liquor board will not be considered until the next regularly scheduled meeting of the packaged liquor board. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership, LLC, or a corporation, the application shall be verified by the oath of each partner, the general manager of the LLC, or by the president of the corporation. The application shall identify the name and address of the owner of the property for which the certificate is sought, and shall be accompanied by evidence that the owner has agreed to allow the proposed retail store to be operated on the property upon issuance of a license.

(2) Upon submission of a completed application, a review of the reports of the police chief and the town manager, the packaged liquor board shall determine that all requirements contained in this ordinance have been met. Thereafter, the applicant shall appear before the packaged liquor board for a public hearing in which the applicant may seek a recommendation from the board to the town council for the issuance of a certificate of compliance from the council. In considering whether or not to grant the certificate of compliance, the packaged liquor board shall consider the following:

(a) The packaged liquor board shall conduct an analysis of the proposed liquor store site to determine its suitability; such analysis shall include, but shall not be limited to the following:

(i) A land use survey of the surrounding development;

- (ii) Off-street parking and loading facilities;
- (iii) Proposed points of access and ease of ingress and egress;
- (iv) The lot, yard and open space requirements; and
- (v) Whether a traffic hazard will be created.

(3) The packaged liquor board shall make a recommendation to the town council. The certificate shall be granted or denied by the town council within sixty 60 days after the application for the certificate is submitted to the town clerk and, if granted, shall be signed by the mayor or a majority of the town council. A certificate of compliance shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the Alcoholic Beverage Commission within sixty (60) days of the date of the certificate or the retail store for which a certificate was granted is not in operation within 12 months following the issuance of the license from the Alcoholic Beverage Commission. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application or reapplication is submitted and all applicable requirements of this chapter are met at the time the new application or reapplication is received.

(4) Each application shall be accompanied by a non-refundable application fee as set forth by the town council in the fee schedule adopted as part of the annual budget ordinance. Reapplications shall not have priority over the other applications being processed at the time of the reapplication.

(5) The mayor shall be authorized to issue a certificate of compliance required in connection with the renewal of an existing license pursuant to Tennessee Code Annotated §57-3-213 without deliberation by the full town council. If the mayor fails or refuses to issue a certificate required in connection with a license renewal, the license holder may request issuance of the certificate by a majority of the town council. The initial certificate of compliance issued in connection with the renewal of an existing license shall be valid for two years. The fee for such initial renewal shall be accompanied by an investigation fee as set forth in the fee schedule adopted as part of the annual budget ordinance. A new certificate of compliance shall be required by the licensee in connection with the renewal of an existing license every other year thereafter, which application for such new certificate of compliance shall be on the same forms as for an original application for a certificate of compliance and accompanied by an investigation fee in the same amount as that for an original application for a certificate of compliance.

8-314. Applicant to agree to comply with laws. The applicant for a license or certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the town and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.

8-315. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and the town

manager for review, each of whom shall submit his findings to the packaged liquor board prior to the meeting at which the application is being considered.

8-316. Full and accurate disclosure required.

(1) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensee, unless his interest in said business and the nature, extent, and character thereof shall appear on the application. If the interest is acquired after the issuance of a license, it shall be fully disclosed to the town council and approved by it. Where such interest is owned by such person on or before the application for any license or certificate, the burden shall be upon such person to see that this section is fully complied with, whether he signs or prepares the application, or whether the same is prepared by another. If said interest is acquired after the issuance of the license or certificate, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser. If any person shall violate the provisions of this subsection, he shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars per day for each violation.

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

(3) If the provisions of this section are alleged to have been violated, the town council may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

8-317. Restrictions as to location of retailers.

(1) A certificate issued under this chapter shall be valid only for the premises proposed in the application, and any change of location of the business shall be cause for immediate revocation of the certificate. No certificate of compliance shall be issued for the operation of a retail store, where such store would be a prohibited use under the town's zoning ordinance, or where the proposed place of business is located within 500 feet of:

(a) a private residence which is in a residential zoning district. A "private residence" as used herein is defined as a house or dwelling where not more than two families reside, and shall not include an apartment house having facilities for housing more than two families nor a boarding or rooming house where there are five or more boarders or roomers;

(b) any structure used as a church or other religious institution, school or college, hospital, daycare, park, public library, or other place of public gathering. "School" and "college" as used herein shall not include private colleges or schools wherein only specialized subjects, such as music, art, cosmetology, computer skills or vocational occupations are taught; or

(c) another retail liquor store.

(2) For purposes of determining distance from any private residence, church, school, college, hospital, daycare, park, public library, other place of public gathering, or another retail store, the distance shall be measured from the center of the main entrance of such structures and following the usual and customary path of pedestrian travel to the center of the main entrance of the proposed liquor store.

(3) The restrictions set forth herein as to locations apply to conditions existing as of the time of the application for a certificate is filed.

(4) Building, signage, and design review provisions.

(a) All liquor stores shall be a permanent type of construction in a material and design approved by the town council. All stores shall strictly comply with or exceed the Design Review Guidelines as adopted and in place in the Town.

(b) No liquor stores shall be located in a manufactured or other moveable or prefabricated type of building.

(c) All liquor stores shall have night light surrounding the outside of the premises and shall be equipped with a functioning burglar alarm system, monitored by an outside, central station, on the inside of the premises.

(d) The minimum square footage of the liquor store display area shall be two thousand five hundred (2,500) square feet.

(e) Full, free and unobstructed vision shall be afforded to and from the street and public highway to the interior of the liquor store by way of large windows in the front and to the extent practical to the sides of the building containing the liquor store. There shall be no signage permitted on store glass windows or doors or hanging from any object which would cause any obstruction of vision into the store from more than three feet from walking level to the ceiling of the store.

(f) Stores are permitted one sign of no more than twenty-five (25) square feet as wall signage. Such signage shall be on the front wall. Such signage shall be static, and it shall not blink, move, be animated, or otherwise contain changeable copy.

(g) In addition, free standing signage shall be limited to one ground-mounted sign, not more than seven feet tall, encompassing eighty (80) square feet total, and ground signage must be landscaped. Stores in a commercial shopping center shall only place a sign on the shopping center sign and shall not be permitted to have a separate free-standing sign.

(h) All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, as adopted within the Smyrna Municipal

Code, unless specifically stated otherwise herein. The strictest and most specific provisions shall apply.

8-318. Proof of net worth by applicant; required documents.

(1) An applicant for a certificate of compliance shall furnish evidence satisfactory to the town of his financial net worth in the net amount of \$100,000.00. Such proof shall be by the submission of a certified financial statement.

(2) In addition to the above, the following documents and information are required to be submitted as part of the application for a certificate of compliance:

- (a) business plan for proposed package liquor store;
- (b) current occupation or business and length of time engaged in such occupation and business;
- (c) if employed, the name and address of your employer;
- (d) if in business, the kind of business and location thereof;
- (e) the amount of money invested or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the applicant does business, and the name of any person who is aiding the venture financially, either by a loan or endorsement;
- (f) the name of any person who will have an interest, direct or indirect, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail license;
- (g) if the applicant is a partnership, LLC, or corporation, the name, age and address if each partner or stockholder and his occupation, business or employer;
- (h) if you employ an outside person or company to keep your books, please state the name and address of such person or company. You must execute a waiver to allow access to your books;
- (i) furnish your Tennessee Sales Tax Registration number;
- (j) if you are indebted to the State of Tennessee and/or any municipality for any tax, state the tax and the amount owed;
- (k) provide any and all federal taxpayer identification numbers and the names associated with such identification numbers;
- (l) for any business owned, provide the last two years tax returns.

(3) Information requested within the application must be provided. All incomplete applications shall be denied by the packaged liquor board.

(4) The application required in this section shall be verified by the oath of the applicant, and if the applicant is a partnership, corporation, or LLC, it shall be verified by the oath of each partner or stockholder, who holds at least 10% of shares.

8-319. Restrictions on license holders and employees.

(1) No license or certificate of compliance shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or

by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) No retailer shall be a person who has been convicted of a felony within ten years prior to the time he or she or the concern with which he or she is connected shall apply for a certificate of compliance. In the case of a partnership or corporation, no executive officer or anyone in control of the entity shall have been convicted of a felony within a ten-year period immediately preceding the date of the application. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he or she is connected shall immediately discharge him or her.

(3) No license or certificate shall under any condition be issued to any person who within ten years preceding application for such license or certificate shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer, or who has, during said period, been engaged in business, alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto.

(4) No retailer shall be a person who has been convicted for a crime violating a drug or alcohol law or a crime involving physical violence, within the last five years or who has more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten (10) years. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted individual be an individual licensee, and if not, the partnership, corporation or association with which he or she is connected shall immediately discharge him or her.

(5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises or any other person having a license hereunder or in the fixtures of any such person.

(6) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen years. It shall be unlawful for any retailer to employ any person under eighteen years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten years prior to the date of his employment

shall have been convicted of a felony. In case an employee should be convicted he shall immediately be discharged.

(9) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within five years prior to the date of his employment shall have been convicted for a crime violating a drug or alcohol law or a crime involving physical violence or who has more than one conviction for a crime violating a drug or alcohol law or a crime involving physical violence, within the last ten (10) years. In case an employee should be convicted he shall immediately be discharged.

(10) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten years prior to the date of his employment shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors or beer, or who has, during said period, been engaged in business, alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto.

(11) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

8-320. Display of licenses. Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post, and keep displayed and posted, in a conspicuous place in their premises, such license.

8-321. Transfer of licenses restricted. The holder of a license may not sell, assign, or transfer such license to any other person, and the license shall be good and valid only for the calendar year in which the same was issued.

8-322. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the town. The word "indirectly" as used in this section shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

8-323. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. No devices which tend to cause persons to congregate shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. No form of entertainment, including pin ball machines, music machines, or similar devices shall be permitted to operate upon any premises from which alcoholic beverages are sold.

8-324. Entrances. Each retail establishment shall have only one main entrance, provided that when a store is located on the corner of two streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

8-325. Municipal inspection fee.

(1) There is hereby levied upon every licensee under this chapter an inspection fee of five percent of the wholesale price paid by such licensee to a wholesaler for all alcoholic beverages sold and/or supplied by a wholesaler of alcoholic beverages to said licensee within the corporate limits of the Town of Smyrna, said fee to be collected by the wholesaler as hereinafter provided.

(2) The inspection fee shall be collected by the wholesaler from the licensee following notice given the wholesaler by the town clerk of passage of this chapter. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the licensee makes payment for the delivery of the alcoholic beverages.

(3) Each wholesaler making sales to licensees located within the corporate limits of the Town of Smyrna shall furnish the municipality a report monthly, which report shall contain a list of the alcoholic beverages sold to each licensee, the amount of the inspection fee due and such other information as may be required by the municipality. A monthly report shall be furnished to the municipality imposing the inspection fee not later than the 20th of the month following the month in which the sales were made. The inspection fees collected by the wholesalers from the licensee or licensees located within the municipality shall be paid to the municipality at the time the monthly report is made. Wholesalers collecting and remitting the inspection fee to the municipality shall be entitled to reimbursement for this collection service a sum equal to five per cent of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the municipality.

(4) The failure of the wholesaler to collect or timely report and/or pay the inspection fees collected shall result in a penalty in the amount of ten percent of the inspection fee due the municipality, which shall be payable to the municipality. Any refusal to permit the examination of any of such books, papers, and records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license.

(5) The inspection fee provided for herein shall be in lieu of all other gross receipt or inspection fees imposed upon wholesalers or licensees under this chapter on alcoholic beverages by the municipality.

(6) The town manager or his designee shall have the authority to audit the records of the wholesalers and/or licensees subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers and/or licensees.

8-326. Regulations for purchase and sale of intoxicating liquors.

(1) It shall be unlawful for any person in this town to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverage to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where other business is carried on.

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

(5) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee and curb service is not permitted.

(6) To the fullest extent, consistent with the structure of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(7) Advertising by a licensee, and signs, displays, posters, and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage Commission and/or the sign provisions and restrictions of the underlying zoning district in which the licensee is located or the sign or advertising is proposed or as otherwise specifically provided in this ordinance.

8-327. Regulation of retail sales.

(1) No retailer shall sell, lend, or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend, or give away such beverage to any person accompanied by a person who is drunk.

(2) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one years of age.

(3) No retailer shall sell, lend, or give away any alcoholic beverages between 11:00 p.m. on Saturday and 8:00 a.m. Monday. No retailer shall sell, lend, or give away any alcoholic beverages except between the hours of 8:00 a.m. and 11:00 p.m. on Monday through Saturday. The store may not be open to the general public except during regular hours.

(4) No retailer shall sell, lend, or give away any alcoholic beverages on Christmas Day, Thanksgiving Day, Labor Day, New Year's Day, Easter, or the Fourth of July.

(5) 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.

(6) Entertainment devices and seating forbidden. No form of entertainment, including pinball machines, music machines or similar devices shall be permitted in

any liquor store. No seating facilities, other than for employees of the liquor store, shall be permitted in any liquor store.

8-328. Ineligibility for beer permit holders. No retailer shall hold, have any interest in, or be the owner of a business to which a beer permit from the Town of Smyrna has been issued, revoked, or suspended. No retailer shall hold a license to sell beer and a license for retail sale of packaged liquor.

8-329. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter.

8-330. Revocation procedures. Whenever the town council finds that a licensee has been, or is, in violation of the provisions of Tennessee Code Annotated, Title 57, Chapter 1, or the provisions of this chapter, it shall certify such violation to the Alcoholic Beverage Commission, in such form as the commission requires, which shall have the responsibility for determining whether the offender's license shall be revoked.

8-331. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date said revocation becomes final and effective.

8-332. Manufacturing prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits.

8-333. Visible possession of unsealed containers on streets, etc., prohibited. Visible possession of alcoholic beverages in unsealed containers upon any public street or within any governmental building or public park shall be a violation of this chapter.

8-334. Chapter does not apply to beer. No provision of this chapter shall be considered or construed as in any way modifying, changing, or restricting the rules and regulations governing the sale, storage, transportation, etc., or tax upon beer or other liquids with an alcoholic content of five percent or less, as defined in Tenn. Code Ann. §57-5-101, more specifically Chapter 3 of this title.

8-335. Violations. Any violation of the terms of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately certify

the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.