

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

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2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

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8-101. Alcoholic beverages subject to regulation. 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 this city except as provided by Tennessee Code Annotated, title 57 and as provided under this chapter. (1988 Code, § 2-101, as replaced by Ord. #542, Feb. 2011, and Ord. #593, June 2017)

¹State law reference

Tennessee Code Annotated, title 57.

8-102. State laws to be complied with. 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. (as added by Ord. #542, Feb. 2011, and replaced by Ord. #593, June 2017)

8-103. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or a majority of the city council, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

(1) For all applications, the following information shall be provided by the applicant:

(a) Name, age, date of birth and address of the applicant.

(b) The applicant's occupation or business and length of time engaged in such occupation or business.

(c) Name, age, date of birth and address of each person to have any interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer, or otherwise.

(d) The name of the retail store to be operated under the license.

(e) The address of the retail store to be operated under the license and the zoning designation applicable to such location.

(f) Whether or not the applicant(s) who are to be in actual charge of the business have been convicted of a felony within a ten (10) year period immediately preceding the date of the application. If a corporation, whether or not the executive officers or those in control have been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(g) The name and address of the owner of the store.

(h) Copies of the applicant's public notice published in at least three (3) consecutive issues of a newspaper of general circulation in the area to be served immediately preceding the date the applicant applies for the certificate of compliance and the sworn statement by the applicant that he/she/it has complied with the rules of the Tennessee Alcoholic Beverage Commission pertaining to public notice.

(2) If the applicant is a corporation, the following information shall be included:

(a) Name of the corporation, state of incorporation, and date of qualification to do business in the State of Tennessee if the state of incorporation is other than Tennessee;

(b) List of names, dates of birth, and addresses of all officers of the corporation;

(c) List of names, dates of birth, and addresses of all directors of the corporation;

(d) List of the names, addresses, percent of outstanding stock owned or controlled, and business or occupation of each stockholder of the corporation owning ten percent (10%) or more of the outstanding stock of each class of said corporation;

(e) Whether any officer or director has been convicted of a felony within the past ten (10) years; and

(f) A copy of the charter of the corporation shall be attached as an exhibit to the application.

(3) If the applicant is a partnership, the following information shall be included:

(a) Partnership name and address;

(b) Names, dates of birth, and addresses of all partners indicating separately those partners who are general partners and those who are limited partners, if any, and, for each partner, showing the name of such partner, such partner's profit sharing percentage in the partnership, and the business or occupation of each such partner;

(c) A copy of the partnership agreement shall be attached as an exhibit to the application; and

(d) Whether any partner has been convicted of a felony within the past ten (10) years.

It shall be unlawful for any person to have ownership in or participate in, either directly or indirectly, the profits of any liquor store unless his or her interest in such business and the nature, extent and character thereof shall appear on the application.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each application for a certificate of compliance for off-premise consumption shall pay a non-refundable application fee of two hundred fifty dollars (\$250.00) to the city recorder.

The applicant must complete and return with the application any documents or forms that the chief of police or city attorney may require in order to conduct an investigation on the applicant. (as added by Ord. #542, Feb. 2011, and replaced by Ord. #593, June 2017, Ord. #644, June 2021 *Ch8_12-04-23*, and Ord. #678, Nov. 2022 *Ch8_12-04-23*)

8-104. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and regulations and the ordinances of the City of Dayton and the rules and regulations of the Alcoholic Beverage Commission of the State of Tennessee for sale of alcoholic beverages. (as added by Ord. #542, Feb. 2011, and replaced by Ord. #593, June 2017)

8-105. Applicant to appear before city council; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the city council for such reasonable examination as may be desired by the city council. (as added by Ord. #542, Feb. 2011, and replaced by Ord #593, June 2017)

8-106. Action on application. (1) Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his/her findings to the city council within thirty (30) days of the date each application was filed.

(2) The city council may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the city council. (as added by Ord. #593, June 2017, and replaced by Ord. #644, June 2021 *Ch8_12-04-23*)

8-107. Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of Rhea County for not less than one (1) year at the time his/her application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Rhea County not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #593, June 2017)

8-108. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #593, June 2017)

8-109. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. 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. (as added by Ord. #593, June 2017)

8-110. Where establishments may be located and advertising.

(1) It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose. All such stores shall be located within the C-2 General Commercial District as appears on the official zoning map of the City of Dayton on the date of application. In no event will a store be allowed within one hundred feet (100') of any school, church, hospital, or other public gathering place. The distances shall be measured in a straight line, with the measuring points being front door to front door, between the said retail store and the building housing a school, church, hospital, or other public gathering place.

(2) No retail store shall be located within five hundred feet (500') of any other retail store in the City of Dayton. The distance shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the alcoholic beverage will be sold, manufactured or stored to the nearest point on the property line upon which sits the second building from which the alcoholic beverage will be sold, manufactured or stored.

(3) There shall be no advertising signage of any kind whatsoever outside the building containing a retail store, either for the retail store or to advertise any matter pertaining to alcoholic beverages sold at retail stores, except as set forth herein. The provisions of the City of Dayton Zoning Regulations and any other city ordinances or regulations addressing signs shall not apply to retail stores unless any specific restrictions on signs or advertising in the zone where a retail store is located are more restrictive than the regulations contained herein, in which case the more restrictive provision shall apply. There may be placed on the front of a retail store, but not extending therefrom over twelve inches (12"), a sign setting out the name of the retail store. One (1) free standing sign may also be located on the property where the retail store is conducting business. Such signs shall not exceed sixty (60) square feet in dimension. No such sign shall contain letters of neon or tube lighting so as to produce lighting within the letters themselves, though signs lit by back lighting are permitted. No reader board or changeable copy signs shall be permitted. (as added by Ord. #593, June 2017)

8-111. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #593, June 2017)

8-112. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store may have two (2) main entrances opening on a public

street, and such place of business shall have no other entrance for use by the public except as may be provided by Tennessee Code Annotated, § 57-3-404. When a retail store is located on the corner of two (2) public streets, such store may maintain a door opening on each of the public streets. Additionally, any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as the lobby shall be open to the public. (as added by Ord. #593, June 2017)

8-113. Repealed. (as added by Ord. #593, June 2017, and repealed by Ord. #603, Jan. 2018)

8-114. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (as added by Ord. #593, June 2017)

8-115. Inspection fee. The City of Dayton hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (as added by Ord. #593, June 2017)

8-116. Violations. Any violation of the provisions 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 city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #593, June 2017)

8-117. Severability. The provisions of this chapter are hereby declared to be severable and if any provision hereof shall be declared unconstitutional or invalid for any reason, the city council hereby declares that this chapter would have been adopted without such unconstitutional or invalid provision. (as added by Ord. #593, June 2017)

8-118. Section headings. The section headings included herein are solely for assistance in locating the various provisions contained in this chapter; and no such section heading shall be used by construction or otherwise to limit the meaning of the provisions contained in the body of any section. (as added by Ord. #593, June 2017)

CHAPTER 2

BEER

SECTION

- 8-201. Transportation, storage, etc., subject to regulation.
- 8-202. Application and permit required for selling, storing, etc.; notice.
- 8-203. Contents of application.
- 8-204. Licensees must be of good moral character, etc.
- 8-205. License to be issued.
- 8-206. Procedure for granting licenses.
- 8-207. Closing hours, etc.
- 8-208. License fees paid in advance; licenses to be displayed; sales by distributors, etc.; licenses not transferable.
- 8-209. Two (2) types of retail beer permits.
- 8-210. Application fees.
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8-201. Transportation, storage, etc., subject to regulation. The transportation, storage, distribution, possession, and/or manufacture of beer and/or ale of any alcoholic content of not more than 5% by weight within the corporate limits of Dayton, Tennessee, shall be subject to the regulations hereinafter set out and provided. (1988 Code, § 2-201)

8-202. Application and permit required for selling, storing, etc.; **notice.** (1) It shall be unlawful for any person to sell, store more than one case, distribute, or manufacture beer within the city without having first obtained a permit and license as provided in this chapter. Before any person is authorized to sell, store more than one case, distribute, or manufacture beer he shall make application to the city council, upon a form prescribed by it, for a permit to do so.

(2) Before the city council issues a license or permit under this section, it shall cause to be published in a newspaper of general circulation a notice

including the name of the applicant, the address of the location for, the license or permit, and the date and time of its meeting at which the application will be considered. The notice shall be published not less than ten (10) days prior to the meeting. The meeting shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a license or permit. (1988 Code, § 2-202)

8-203. Contents of application. The application shall state and establish:

(1) The name and residence address of the applicant and how long the applicant has resided there.

(2) The particular place for which a license is desired, designating it by street and number, if practicable, and if not, by such other apt description as definitely locates it.

(3) The kind of license desired.

(4) The name of the owner of the premises upon which the business licensed is to be carried on.

(5) That the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license permit is issued to such applicant; that no sale, storage, manufacture, or distribution of such beverage will be made except in accordance with the permit granted.

(6) That no sale will be made to minors; that the applicant will not permit minors or disorderly or disreputable persons, or persons heretofore connected with the violation of the liquor laws, to loiter around the place of business and that no minors shall be employed in the direct sale, storage, manufacture, or distribution of beer.

(7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked.

(8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has ever been convicted of any violation of laws against the prohibition, sale, manufacture, storage, distribution, or transportation of intoxicating liquor or of any crime involving moral turpitude within the past ten years next preceding the filing of such application.

(9) That the applicant will conduct the business in person for himself, or, if he is acting as agent, the applicant shall state the person, firm, or corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(10) That no brewer, manufacturer, distributor, or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on.

(11) That the applicant is willing to be fingerprinted by the police department of the City of Dayton and is willing to be investigated by municipal, county, state, and federal law enforcement agencies concerning the applicant's background and record.

(12) That the applicant agrees to comply with all the laws of the United States, and of the State of Tennessee, and with all ordinances of the City of Dayton. The application shall be supported by an affidavit or oath that the facts stated therein are true.

(13) That no such beverages will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches, or other places of public gatherings, or otherwise interfere with public health, safety and morals; further, such beverages shall not be sold within one hundred (100) feet of any school, church, or public gathering place (measured in a straight line, with the measuring points being front door to front door, between the establishment selling said beverages and the building housing a school, church, or other said place of public gathering). (1988 Code, § 2-203, as amended by Ord. #414, Nov. 2000, and Ord. #430, Sept. 2002)

8-204. Licensees must be of good moral character, etc. No permit or license shall be issued except to persons of good moral character who have not been convicted of any violation of the laws against manufacturing, selling, transporting, storing, distributing, or possessing of intoxicating liquors, or of selling or possessing beer illegally, or of any crime involving moral turpitude, within ten (10) years of the date of application; nor shall any permit or license be issued to any firm, corporation, syndicate, joint stock company, or association, which has members, officers, stockholders, or employees who have had such convictions. (1988 Code, § 2-204)

8-205. License to be issued. Any applicant seeking a license or permit under this section and who complies with the conditions and provisions of this section shall have issued to him the necessary license or permit. In the event the license or permit is refused, the applicant shall be entitled to a hearing on his application for the issuance of a license or permit. The refusal to grant a license or permit, or the refusal to grant a hearing upon a person's application for a license or permit, may be reviewed by the Circuit or Chancery Court. (1988 Code, § 2-205)

8-206. Procedure for granting licenses. When an application is made to the city council for a license, the following procedure will apply:

(1) No application for a beer license will be approved without a public hearing to be conducted at the city hall as set out in § 8-202(2). The name of the applicant, name and address of his place of business, and the date of hearing will be announced in the local newspaper in Dayton, Tennessee.

(2) Permits shall be approved or disapproved by the city council in a regular meeting and, if approved, a license shall be issued by the recorder for the City of Dayton upon payment of the license fee provided by law.

(3) Permits so approved shall not be required to be renewed periodically; however, they are subject to revocation or suspension as set out in § 8-215. (1988 Code, § 2-206, as replaced by Ord. #528, Jan. 2010)

8-207. Closing hours, etc. All licensees holding a license to sell beer under this chapter shall observe the closing hours and dates as set out in section 8-214, except that the operator of the business who sells beer in conjunction with another business shall be given authority to operate the other business at hours other than those set out in § 8-214. However, when the other business is being operated, that portion where beer is sold shall be concealed by drapes or other means whereby beer is not in plain view to the public and signs shall be posted denoting that no beer shall be sold during the hours established by § 8-214. (1988 Code, § 2-207)

8-208. License fees paid in advance; licenses to be displayed; sales by distributors, etc.; licenses not transferable. (1) All license fees shall be paid in advance and shall not be subject to refund in whole or in part for any reason. All permittees and licensees shall display and keep displayed their beer permits and beer licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(2) No manufacturer, distributor, or warehouseman shall sell to anyone except to a licensed beer dealer.

(3) Permits and licenses shall not be transferable. (1988 Code, § 2-208)

8-209. Two (2) types of retail beer permits. Permits for the retail sale of beer issued by the city shall be of two types:

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

(2) Off-premises permits shall be issued for sale of beer to be consumed off the premises. (1988 Code, § 2-209)

8-210. Application fees. The city shall be entitled to demand and receive from each applicant an application fee of two hundred and fifty dollars (\$250.00) which shall be non-refundable, which shall be paid by the applicant to the recorder of the City of Dayton with the application.¹

¹State law reference

Tennessee Code Annotated, § 57-5-104(a).

This section shall in no way be construed to require the periodic renewal of beer permits or licenses. (1988 Code, § 2-210)

8-211. New permit required when location is moved. When any person moves the location of the place of business where such beverages are sold, then in all cases he shall be required to obtain from the city a new permit in the manner herein provided by application to the city therefor. (1988 Code, § 2-211)

8-212. Licensees required to give bonds. Every person, firm, corporation, or association, before being issued a license to sell at retail within the corporate limits of the City of Dayton any of such beverages permitted to be sold hereunder, shall make and deliver to the recorder to the City of Dayton, who shall be entitled to demand and receive a fee of \$2.00 therefor, a joint and several bond in the penalty of one thousand dollars (\$1,000.00) payable to the State of Tennessee. The bond shall be signed by some solvent surety company authorized to carry on a general surety business within the State of Tennessee or by solvent personal sureties and shall be conditioned that the principal thereof will pay any fine which may be assessed against such principal by any court of competent jurisdiction for any violation of the provisions of this chapter. (1988 Code, § 2-212, modified)

8-213. Miscellaneous restrictions on persons engaged in beer business. It is hereby declared to be a misdemeanor for any person, firm, corporation, or association engaged in the business regulated hereunder, to make or permit to be made any sales or distribution of such beverages to minors; to employ minors directly in the sale or distribution of such beverages to minors; to employ minors directly in the sale or distribution of such beverages or to permit minors to loiter on the premises; to sell or distribute such beverages to persons intoxicated or under the influence of intoxicating beverages; to sell or distribute such beverages to persons who are feeble-minded, insane, or otherwise mentally incapacitated; to sell or distribute such beverages at any place where gambling or a dance hall is operated or where dancing is allowed or permitted; to employ any person who has been convicted of any violation of the state statutes prohibiting the possession, sale, manufacture, or transportation of intoxicating liquor, or any-other crime involving moral turpitude within the past ten (10) years. Upon conviction of any of the above violations, the person or firm shall be fined under the general penalty clause for this code. (1988 Code, § 2-213)

8-214. Hours of operation restricted. It is declared to be a misdemeanor for any person, firm, corporation, or association to sell or distribute beer, ale, or other beverages with an alcoholic content of not more than 5% by weight within the corporate limits of the City of Dayton, Tennessee,

between the hours of five o'clock A.M. (5:00 A.M.) and eight o'clock A.M. (8:00 A.M.) on weekdays or between the hours of five o'clock A.M. (5:00 A.M.) and twelve o'clock noon (12:00 P.M. on Sundays. (1988 Code, § 2-214, as replaced by Ord. #541, Feb. 2011)

8-215. Suspension or revocation of permits. The city council may suspend or revoke any permit and shall hear and determine complaints brought for that purpose. Any violation of this chapter shall constitute sufficient grounds for the suspension or revocation of any other permit.

Complaints brought for the purpose of suspending or revoking beer permits shall be made in writing and filed with the mayor. He shall thereupon give or cause to be given written notice, accompanied by a copy of the written complaint, commanding the person, persons, firm, corporation, or association to appear at a time and place designated in the notice before the council to show cause why the permit should not be suspended or revoked. The notice shall be served either by registered letter or by a police officer of the City of Dayton at least ten (10) days prior to the date of the hearing when the person, persons, firm, corporation, or association is cited to appear. At the hearing the city council shall publicly hear and determine the nature and merits of the complaint. The mayor is authorized to compel the attendance of witnesses by subpoena. After the hearing the city council may for proper cause suspend or revoke any permit.

Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective.

The city council, acting as 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 one thousand five hundred (\$1,500.00) dollars for each offense of making or permitting to be made any sale to minors, or, a civil penalty not to exceed one thousand (\$1,000.00) dollars for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the 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. [(1988 Code, § 2-215)

8-216. Permit required for possession of more than one (1) case of beer. It shall be unlawful for any person to possess in the City of Dayton more than one case of beer without a permit or license. A case of beer, for the purpose of this section, is defined as being the quantity contained in 24-twelve ounce cans or containers, or the equivalent thereof. (1988 Code, § 2-216)

8-217. Possession of open cans of beer on streets, etc., prohibited. It shall be unlawful for any person to possess open cans, bottles, or containers

of beer in motor vehicles in the City of Dayton, or upon the public streets, sidewalks, or other public places in the City of Dayton, not otherwise permitted by this chapter. (1988 Code, § 2-217)

8-218. Emergency closings by council authorized. The city council by resolution may in times of emergency close temporarily any businesses licensed hereunder. (1988 Code, § 2-218)

8-219. Inspection of beer places. The police department of the City of Dayton, or any special police officers appointed by the city manager, shall inspect the places of business and premises of the holders of permits and licenses under this chapter. It shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time the place is open for business. (1988 Code, § 2-219)

8-220. Violations. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and may be fined under the general penalty clause for this code for such violation. Furthermore, any permittee or licensee violating any provision of this chapter shall be cited to the city council for a suspension or revocation of the permit or license.

Each day's violation of any provision of this chapter by any permit holder or licensee, and each sale made in violation of any provision of this chapter shall constitute a separate offense which shall be punishable by a fine or by suspension or revocation. (1988 Code, § 2-220)

8-221. Sign required—penalty for failure to comply. (1) Each holder of a license or permit to sell, at retail, beer of alcoholic content of not more than five percent (5%) by weight, or any other beverage of like alcoholic content, shall display in a prominent place at the location where such sales are permitted a sign, at least six (6) inches high and fourteen (14) inches wide stating:

FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF FIVE (5) YEARS IMPRISONMENT AND A FINE NOT TO EXCEED \$2,500.00 FOR CARRYING WEAPONS WHERE ALCOHOLIC BEVERAGES ARE SOLD OR SERVED.

(2) Failure by the licensee to comply with the provisions of subsection (1) shall subject the licensee to a fine in accordance with the general penalty clause for this code of ordinances. (1988 Code, § 2-221)

8-222. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer, an annual privilege tax of one hundred (\$100.00) dollars. Any person, firm, corporation, joint stock

company, syndicate or association engaged in the sale, distribution, storage or manufacturer of beer shall remit the tax on January 1, 1994 and each successive January 1, to the City of Dayton, Tennessee. At the time a new permit is issued to any business, subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1988 Code, § 2-222)