

**TITLE 8****ALCOHOLIC BEVERAGES**<sup>1</sup>**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Alcoholic beverages subject to regulation.

8-102. Privilege tax on retail sale of alcoholic beverages for on premises consumption.

**8-101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57, chapter 4, except and by rules and regulations promulgated thereunder, and as provided in this chapter.

**8-102. Privilege tax on retail sale of alcoholic beverages for on premises consumption.** Pursuant to the authority contained in 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 within the city. It is the intent of the city council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in the city, the same as if said code sections were copied herein verbatim.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

## CHAPTER 2

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

#### SECTION

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**8-201. Beer board created.** There is hereby created a board, which shall be known and designated as the Beer Board of the City of Eagleville, Tennessee. Such board shall be composed of the City Council of the City of Eagleville, Tennessee. (Ord. #09-01, June 2009)

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<sup>1</sup>State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

**8-202. Organization and meetings.** The board shall organize by the election of a chairman and secretary. The board shall meet at such times as the members shall prescribe. All meetings shall be held in the municipal building at an hour fixed by the board. Minutes shall be kept of the meetings in permanent form and a record shall be kept of the action of the board with respect to every application for a beer permit. The presence of a majority of the members shall constitute a quorum and the concurring vote of the majority present at any meeting of the board shall be necessary to approve or revoke any beer permit. The minute book of the board shall be a public record, and shall become a part of the records of the city recorder. (Ord. #09-01, June 2009)

**8-203. Powers and duties of the beer board.**<sup>1</sup> The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this city in accordance with the provisions of this chapter. (Ord. #09-01, June 2009)

**8-204. Procedures of the board.** The beer board is authorized and empowered to adopt such reasonable rules and regulations as a majority thereof may deem necessary and proper for the operation and supervision of the business of the permittees in conformity with the provisions of this chapter. (Ord. #09-01, June 2009)

**8-205. "Beer" defined.** The term "beer" used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101.

**8-206. Beer permit required; application fee.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be accompanied by a non-refundable application fee pursuant to Tennessee Code Annotated, § 57-5-101(b), as well as any costs of publication required under § 8-207 in the form of a cashier's check payable to the city. (Ord. #09-01, June 2009, modified)

**8-207. Applications; time for filing; requisites.**<sup>2</sup> All applications for a beer permit shall be made on a form prescribed by the board in conformity with the requirements of this section.

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<sup>1</sup>State law reference  
Tennessee Code Annotated § 57-5-106.

<sup>2</sup>State law reference  
Tennessee Code Annotated § 57-5-103.

Before the beer board shall issue a license or permit under this section, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such license and permit and the date and time of its meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to such meeting. Such 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.

All applications for any permits required hereunder shall be verified by oath and affidavit, and shall establish the following:

(1) That neither the applicant nor any person or persons employed by him/her in such distribution or sale has been convicted of any violation of the statutes of Tennessee or any other state prohibiting the possession, sale, manufacture or transportation of intoxicating liquors, or any other crime involving moral turpitude in the past ten (10) years or have been convicted of any crime classified as a felony under the statutes of Tennessee or any other state. This section would not be applicable to servers with a certification from Alcoholic Beverage Commission per Tennessee Code Annotated § 57-5-106.

(2) That no sale shall be made to any person under the age of twenty-one (21) years, nor shall any person under the age of eighteen (18) be employed directly in the sale or distribution of such beverages.

(3) That no person under the age of twenty-one (21) shall be allowed to loiter about the applicant's premises, provided that persons under that age shall be allowed a reasonable amount of time to consume their meals and nonalcoholic beverages.

(4) That no sale shall be made to persons intoxicated or who are feeble-minded, insane or otherwise mentally incapacitated.

(5) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business.

(6) That in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises will be allowed, and that the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner.

(7) That if the application is for an "on-site" permit, the primary business of the applicant on the premises for which the beer permit is requested is the sale of prepared food to be consumed on the premises and that less than thirty percent (30%) of the applicant's income on the premises will be from the sale of beer. (Ord. #09-01, June 2009, modified)

**8-208. Application to be filed; open to inspection; forfeiture of permit for false statement.** The application shall at all times be kept on file by said board, shall be open to inspection of the general public, and any person, firm, corporation or association making false statement of the material facts in

the application shall forfeit the permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (Ord. #09-01, June 2009)

**8-209. Classes of permits.** There shall be four (4) classes of permits issued by the beer board as follows:

(1) Class A. An "off-site" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

The monthly beer sales of any Class A permit holder which for two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding thirty percent (30%) of its gross sales shall have its beer permit suspended or revoked in accordance with the provisions in this chapter.

(2) Class B. An "on-site" permit to any person or legal organization engaged in the operation of a restaurant wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises and less than thirty percent (30%) of its income is from the sale of beer.

(3) Class C. A temporary permit may be issued at the request of an applicant through the same process governing permanent permits, except that the posting of a sign on the premises shall not be required as part of the application process, and the beer board shall determine and specify the terms and conditions for issuance of each temporary permit. Temporary permits may be issued for periods of time not to exceed a total of thirty (30) days during any consecutive twelve (12) month period under the same permit and application. Temporary permits may be issued by the beer board for scheduled sporting, recreation, amusement, dining, entertainment and other similar events and activities and shall specify with reasonable particularity the premises on which the permit shall be valid and the time or times during which the permit shall be valid. If events covered by a temporary permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the temporary permit application. Except when the members of the beer board and the members of the city council are one and the same, no such permit shall allow the sale, storage, dispensing, serving, distribution, or manufacture of beer on publicly owned or controlled property, or on public right-of-way, unless additionally approved by the city council. The beer board is authorized to place any and all limitations or restrictions it deems necessary on temporary permits, including but not limited to hours of sales and number of locations. Should special called meetings of the beer board be necessary to consider temporary permit applications or follow-up applications other than days and times that the beer board or city council are scheduled to meet, the applicant will be required to pay the same fee for special called meetings as prescribed in the city's current fees schedule. Temporary permits shall be issued as one (1) of two (2) types:

(a) Single event permit. A single event permit shall be valid for a maximum of thirty (30) days, with the actual number of days and the specific times each day to be determined by the beer board based upon the information provided by the applicant.

(b) Multiple event permit. A multiple event permit may be issued for a fixed number of events during a calendar year. The exact dates and locations of each event must be approved by the beer board at the time of issuance of the permit, or if exact dates or locations are not known at the time of permit issuance, subsequent approval at a future beer board meeting must be obtained prior to the event. Each beer board meeting that is necessary to consider previously unknown dates or locations under this section require the payment of an additional fifty dollar (\$50.00) application fee, which must be submitted with a request and description of the event three weeks prior to the next scheduled or called beer board or city council meeting in which the issue is intended to be taken into consideration. The applicant shall also pay the city for the additional cost of each related publication. (Ord. #09-01, June 2009, as amended by Ord. #2011-05, Aug. 2011, and Ord. #2015-09, July 2015)

**8-210. Grounds for denial of a permit.** No application for permit for the sale of beer shall be approved where in the reasonable determination of the board such sale would cause a dangerous congestion of traffic or interfere with the peaceful and orderly operation of schools, churches, playgrounds, parks, or other places of public gathering, or where the applicant has once held a permit and it has been revoked less than one (1) year from the time of his present application, or where it would otherwise interfere with the public health, safety and morals. (Ord. #09-01, June 2009)

**8-211. Permits prohibited within certain areas.** (1) No permit shall be issued to an applicant whose location:

(a) Is upon property having a common boundary line with the property upon which a church, school, public park or public playground is located; or

(b) Is upon property, any portion of which is perpendicularly across any street from property upon which a church, school, public park or public playground is located.

(2) No permit shall be issued to an applicant whose location is within two hundred fifty feet (250') from any church, school, public park or public playground.

(3) In determining the distance under this section, measurement shall be from the center of the main entrance of a structure, or facility, in case of a public park or public playground following a straight line, to the center of the main entrance of the potential permittee. (Ord. #09-01, June 2009)

**8-212. Posting of permit.** The permit showing the payment of the permit fee issued shall be conspicuously posted in the house, building, room or place where the business authorized by the permit is conducted. (Ord. #09-01, June 2009)

**8-213. Prohibited hours of sale.** The prohibited hours of sale for all classes of permit holders shall be:

- (1) Weekdays and Saturdays: 3:00 A.M. until 6:00 A.M.; and
- (2) Sundays: 3:00 A.M. until 10:00 A.M. (Ord. #09-01, June 2009, as amended by Ord. #2015-02, Jan. 2014)

**8-214. Permit may be suspended or revoked for cause.** (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of this chapter.

(2) The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter.

(3) Complaints filed against any permit holder for the purpose of suspending or revoking such permit shall be made in writing filed with the board when the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter. The board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. Said notice to appear and show cause shall state the alleged violation as charged, and shall be served upon the permittee either by registered letter or by a member of the Police Department of the City of Eagleville, Tennessee. The notice shall be served upon the permittee at least ten (10) days before the date set for the hearing. At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The beer board has the option at the time it imposes a suspension or revocation of offering the permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty of one thousand dollars (\$1,000.00) for any other violation of this chapter. If a civil penalty is offered as an alternative to suspension or revocation, the permit holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension is effective. If the civil penalty is paid within that time, the revocation or suspension shall be withdrawn. The action of the board in all such hearings shall be final, subject only to review by

the court as provided in Tennessee Code Annotated § 57-5-109. (Ord. #09-01, June 2009)

**8-215. Transfer of permits prohibited; notice to board of transfer of beer business ownership required.** The transfer of a beer permit to any other person, firm or corporation is prohibited. However, any person, firm or corporation holding a beer permit under this chapter who proposes to sell or otherwise transfer the business to another person, firm or corporation with the intention or expectation that the buyer or transferee will engage in the business of selling beer at the same location shall be required to notify the beer board of his or her intention to sell or transfer the business. (Ord. #09-01, June 2009)

**8-216. Application of new owner.** The board shall be furnished with the name of the proposed buyer or transferee, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter. (Ord. #09-01, June 2009)

**8-217. Expiration of permit; surrender to board.** Any permit issued for the sale of beer under this chapter shall become invalid and void at 12:00 midnight of the date on which any holder of a permit ceases to operate the business for which said permit was issued. This provision shall not apply to temporary absences of the permittee, but shall apply when said permittee permanently ceases operations under his permit. Said permittee shall within five (5) days from the date on which he ceases to do business under the permit surrender said permit to the city recorder. (Ord. #09-01, June 2009)

**8-218. Restrictions on permit holders.** It shall hereafter be unlawful for any person, firm, or corporation or association to engage in the business regulated hereunder to make or permit to be made any sales or distribution of such beverages to minors; to allow any minor to loiter about such place of business, and the burden of establishing the age of any such minor shall be upon the owner or operator of such place of business; to employ minors directly in the sale of such beverages; to sell or distribute such beverages to persons who are feeble-minded, intoxicated, insane or otherwise mentally incapacitated; to allow consumption of beverages regulated hereunder upon the premises of seller unless a Class B permit has been issued for such premises; to employ any person who has been convicted of any violation of the state statutes prohibiting the sale, possession, manufacture and transportation of alcoholic beverages or any other crime involving moral turpitude within the past ten (10) years. (Ord. #09-01, June 2009)

**8-219. Wholesalers and manufacturers to sell, etc., only to retailers.** It shall be unlawful for any wholesaler, distributor or manufacturer



of beer, or any of their salesmen or representatives, to sell or deliver beer in or out, or from delivery vehicles, to any persons other than holders of valid retail permits and it shall be the duty of such wholesaler, distributor or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid beer permit. (Ord. #09-01, June 2009)

**8-220. Regulations on the sale of beer to minors.** (1) Purchase of beer by minors prohibited. It shall be unlawful for any minor to purchase or attempt to purchase beer, and it shall be unlawful for any minor to present or offer to a permittee, his agent or employee, any written evidence of his or her age, which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or attempting to purchase beer.

(2) Purchase of beer for minor prohibited. It shall be unlawful for any person to purchase beer for a minor.

(3) Identification required prior to sale. Any person, before purchasing or attempting to purchase beer, is required to furnish to the permittee, his or her agent or employee, a photo identification produced by the State of Tennessee, or by any other state or territory of the United States, or any other country of the world, which contains the birth date of the person.

(4) Permittees shall prominently display on or near the cash register where payment for the sale of beer is made and recorded, and on the beer cooler or where beer is merchandised, signs not less than six inches (6") high and ten inches (10") wide, which state: "A MINOR WHO PURCHASES OR ATTEMPTS TO PURCHASE BEER SHALL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW." (Ord. #09-01, June 2009)

**8-221. Privilege tax.**<sup>1</sup> There is imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). 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 January 1, 2010, and each successive January 1 to the City of Eagleville, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #09-01, June 2009)

**8-222. Each violation constitutes a separate offense.** Each sale or distribution of beer in violation of the provisions of this chapter shall constitute a separate offense on the part of each and all persons, firms, corporations or other legal entity participating therein. (Ord. #09-01, June 2009)

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<sup>1</sup>State law reference

Tennessee Code Annotated § 57-5-104(b).

**8-223. Prior permit holders.** Any person, firm, corporation, or legal entity heretofore issued a permit for the sale of beer by the city council of the City of Eagleville, Tennessee, and conducting sales under such permit on the effective date of this chapter shall, in order to continue such sales, be required to apply for a permit for the sale of beer within the municipality under the provisions of this chapter within twenty (20) days from its passage.

Be it further enacted and ordained that in the event any part of this chapter shall be declared invalid for any reason, the remainder of said chapter shall remain in full force and effect and not be affected thereby. (Ord. #09-01, June 2009)

**8-224. Violations and penalty.** Any person in violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to fine or jail sentence in accordance with the general penalty provision in this code of ordinances. (Ord. #09-01, June 2009, modified)