

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. BEER.
2. LIQUOR BY THE DRINK.
3. RETAIL PACKAGE ALCOHOLIC BEVERAGES.

CHAPTER 1

BEER²

SECTION

- 8-101. Beer board established.
- 8-102. Meetings of the beer board.
- 8-103. Record of beer board proceedings to be kept.
- 8-104. Requirements for beer board quorum and action.
- 8-105. Powers and duties of the beer board.
- 8-106. "Beer" defined.
- 8-107. Permit required for engaging in beer business.
- 8-108. Beer permits shall be restrictive.
- 8-109. Interference with public health, safety, and morals prohibited.
- 8-110. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-111. Prohibited conduct or activities by beer permit holders.
- 8-112. Privilege tax.
- 8-113. Civil penalty in lieu of suspension.
- 8-114. Revocation or suspension of beer permits.
- 8-115. Violations and penalty.

8-101. Beer board established. There is hereby established a beer board to be composed of the board of commissioners. The chairman of the beer board shall be the mayor. (1996 Code, § 8-101)

8-102. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before

¹State law reference

Tennessee Code Annotated, title 57.

²State 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).

the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1996 Code, § 8-102)

8-103. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1996 Code, § 8-103)

8-104. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1996 Code, § 8-104)

8-105. Powers and duties of the beer board. 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 town in accordance with the provisions of this chapter. (1996 Code, § 8-105)

8-106. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-107. Permit required for engaging in beer business. 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 made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Kingston Springs. Each applicant must be a person of good moral character and certify that applicant has reviewed and is familiar with the provisions of this chapter and those provisions set forth in the application form approved by the beer board. (1996 Code, § 8-107)

8-108. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted

by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. A single permit may be issued for on-premises and off-premises consumption at the same location. Classification of permits for which the beer board may grant for the sale of beer are:

(1) "On-premises" permit. A permit may be issued to a person or business engaged in the sale of beer where the beer is to be consumed by a purchaser upon the premises of the permit holder.

(a) The privately maintained grounds of a golf course are deemed to be a part of the premises of the permit holder. No beer may be removed from the on-premises location, unless the permit so authorizes, and in no event shall an open container be removed from said location.

(b) Only upon leased or owned property outside of the public streets, public rights-of-way, sidewalks, alleys, parks, or bridges shall beer be sold. Outside serving areas are permitted. Such outdoor serving areas shall be within a well demarked area by a permanently affixed fencing, walls, or posts or stanchions with roping or chains. Signage shall be permanently placed to the effect that no open containers be removed from the premises. The town may, through adoption of a resolution of rules regarding alcohol use in Kingston Springs parks allow for the sale and consumption of beer within the footprint of the L.L. Burns Park Activity Center, if same is in compliance with the provisions of Tennessee law and the town municipal code. Notwithstanding the provisions of this section, however, the sale and consumption of beer is permitted during certain town sponsored or co-sponsored special events within the physical parameters of a special event zone during the time of the special event if otherwise provided by resolution of the board of commissioners. Such special event zone shall be defined by the board of commissioners by resolution and may encompass areas of the public streets, public rights-of-way, sidewalks, alleys, parks, or bridges, during the time of the special event.

(c) A catering permit may be issued for the consumption of beer on-premises of a designated catered site after meeting all of the requirements of this chapter and the remainder of the municipal code of ordinances. A caterer must be licensed under *Tennessee Code Annotated*, chapter 4, title 57, and must provide the beer board evidence of licensure to serve alcoholic beverages, other than beer, if applicable. An applicant holding an on-premises catering beer permit will not be required to pay an additional application fee. An applicant for an on-premises catering beer license will be subject to the permit fees set forth in § 8-107, to be paid annually.

(d) A special event permit upon payment of a special event application fee, non-refundable, in the amount of two hundred fifty dollars (\$250.00), and which may be issued for consumption of beer on-premises, as specified on the permit, for a single event not more than seventy-two (72) hours in duration. Such special event permit issued after application approval shall be valid up to three (3) times in a calendar year to an applicant. In conjunction with the approval of a special event beer permit, the applicant must provide preliminary approval by the building official and detail all matters of event security, parking, health department requirements and any other matters regulated by an adopted code.

(e) The sale of on premises beer shall be sold at the same hours as set by the Tennessee Alcoholic Beverage Commission, pursuant to TABC Rule 0100-01-03.

(2) "Off-premises" permit. The holder of an off-premises permit shall only engage in the sale of beer for consumption, and not for resale of beer, off of the premises of said seller. No open containers and no consumption upon the owned or leased premises shall be permitted. The parking lot of permit holder is expressly a prohibited area for consumption of beer. Curb service and sales to persons in motor vehicles is prohibited. No sale shall occur unless the beer be sold in commercially sealed container(s). (1996 Code, § 8-108, as amended by Ord. #17-008, Aug. 2017, modified, as amended by Ord. #19-009, Nov. 2019)

8-109. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer shall be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering or otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer to a permit holder within one hundred ninety feet (190') of any school or church, as measured in a straight line from the nearest corner of a school or church structure to the nearest corner of the structure where the beer is to be stored, sold or manufactured. For the purpose of this section, a "school" shall mean a public or private elementary, middle or high school. (1996 Code, § 8-109)

8-110. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or any crime involving moral turpitude within the past ten (10)

years. If a permit is issued and no sale(s) under such permit occur for a six (6) month continuous period, said permit shall lapse. (1996 Code, § 8-110)

8-111. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to, and permit may be suspended or revoked for:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer.

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

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

(5) Allow any minor under nineteen (19) years of age to loiter in or about his place of business.

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk or disreputable persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more the definition appearing in *Tennessee Code Annotated*, § 57-5-101.

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises.

(10) On-premises permit holders shall be prohibited from serving beer between the hours of 3:00 A.M. and 8:00 A.M. on Mondays through Saturdays and between the hours of 3:00 A.M. and 10:00 A.M. on Sundays. (1996 Code, § 8-111, modified)

8-112. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of Kingston Springs, 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. (1996 Code, § 8-112)

8-113. Civil penalty in lieu of suspension. 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 dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed one thousand dollars (\$1,000.00) 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. (1996 Code, § 8-113)

8-114. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the board or commissioners. A revocation hearing shall be held if the permit holder also holds a Tennessee Alcoholic Beverage Commission (TABC) permit and has been cited for a violation thereunder. (1996 Code, § 8-114)

8-115. Violations and penalty. Any violation 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. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 2

LIQUOR BY THE DRINK

SECTION

- 8-201. Annual privilege tax.
- 8-202. Definition of "alcoholic beverages."
- 8-203. Consumption of alcoholic beverages on premises.
- 8-204. Public consumption and possession of alcoholic beverages on public property.

8-201. Annual privilege tax. There is here and now levied an annual privilege tax for collection from every person or entity which engages in the business of selling at retail alcoholic beverages for consumption on premises within the municipal limits of the Town of Kingston Springs, to wit:

LICENSE FEES

Restaurants:
Liquor and Wine

75 - 125 seats	\$ 600.00
126 - 175 seats	\$ 750.00
176 - 225 seats	\$ 800.00
226 - 275 seats	\$ 900.00
276 seats and over	\$1,000.00

Wine Only

40 - 125 seats	\$ 120.00
126 - 175 seats	\$ 150.00
176 - 225 seats	\$ 160.00
226 - 275 seats	\$ 180.00
276 seats and over	\$ 200.00

The town recorder upon final passage of this chapter shall forward a certified copy of this chapter to the alcoholic beverage commission. (1996 Code, § 8-201)

8-202. Definition of "alcoholic beverages." As used in this chapter, unless the context otherwise indicates, "alcoholic beverages" means and includes alcohol, spirits, wine, and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content pursuant to *Tennessee Code Annotated*, § 57-5-101. (Ord. #17-009, Aug. 2017, modified)

8-203. Consumption of alcoholic beverages on premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are conducted within the municipal boundaries of the Town of Kingston Springs, Tennessee. It is the intent of the board of commissioners that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the Town of Kingston Springs, Tennessee, the same as if said code sections were copied herein verbatim.

8-204. Public consumption and possession of alcoholic beverages on public property. Only upon leased or owned property outside of the public streets, public rights-of-way, sidewalks, alleys, parks, or bridges shall alcoholic beverages be sold or consumed. Outside serving areas are permitted. Such outdoor serving areas shall be within a well marked area by a permanently affixed fencing, walls, or posts or stanchions with roping or chains. Signage shall be permanently placed to the effect that no open containers be removed from the premises. The town may, through adoption of a resolution of rules regarding alcohol use in Kingston Springs parks, allow for sale and consumption of alcoholic beverages within the footprint of the L.L. Burns Park Activity Center, if same is in compliance with the provisions of *Tennessee Code Annotated*, title 57, chapter 4, inclusive, and the town municipal code. Notwithstanding the provisions of this section, however, the sale and consumption of wine and beer containing an alcoholic content pursuant to *Tennessee Code Annotated*, § 57-5-101, is permitted during certain town sponsored or co-sponsored special events within the physical parameters of a special event zone during the time of the special event if otherwise provided by resolution of the board of commissioners. Such special event zone shall be defined by the board of commissioners by resolution and may encompass areas of the public streets, public rights-of-way, sidewalks, alleys, parks, or bridges, during the time of the special event. (modified)

CHAPTER 3

RETAIL PACKAGE ALCOHOLIC BEVERAGES

SECTION

- 8-301. Alcoholic beverages subject to regulation.
- 8-302. Terms defined.
- 8-303. Application for certificate of good moral character.
- 8-304. Applicant to comply with laws.
- 8-305. Applicant to appear before board of commissioners; duty to give information.
- 8-306. Action on application.
- 8-307. Applicants for certificate who have criminal record.
- 8-308. Only one establishment to be operated by retailer.
- 8-309. Where establishments may be located.
- 8-310. Retail stores to be on ground floor; entrances.
- 8-311. Limitation on number of retailers.
- 8-312. Sale for consumption on premises.
- 8-313. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-314. Inspection fee.
- 8-315. Manufacturing prohibited.
- 8-316. Display of license.
- 8-317. Curb service.
- 8-318. State law deemed as a municipal violation.
- 8-319. Violations and penalty.

8-301. 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 town, except as provided by *Tennessee Code Annotated*, title 57, and in accordance with state law rules and regulations thereunder and as provided in this chapter. (1996 Code, § 8-301)

8-302. 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, beer or wine, where the latter two (2) contain an alcoholic content being the same definition appearing in *Tennessee Code Annotated*, § 57-5-101; this chapter shall not apply to beer as carried in chapter 1.

(2) "Curb service" means all sales transacted outside the building where the business is carried on. The intent of this provision being to ensure

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.

(3) "License" means the license issued herein and "licensee" means any person to whom such license has been issued by the State of Tennessee Alcoholic Beverage Commission.

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

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

(6) "Premises" means 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 parking areas surrounding it.

(7) "Retail sale" or "sale at retail" means a sale at retail any beverage for the sale of which a license is required under the provisions herein.

(8) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(9) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(10) "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*, §§ 57-3-101 to 57-3-110.

Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural. (1996 Code, § 8-302)

8-303. Application for certificate of good moral character. Before any character 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, an application in writing shall be filed with the town manager on a form to be provided by the town, giving the following information:

- (1) Name, age and address of the applicant;
- (2) Number of years residence in Cheatham County;
- (3) Occupation or business and length of time engaged in such occupation or business;
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or the violation of this code or any municipal ordinance, and the details of any such conviction;
- (5) If employed, the name and address of employer;
- (6) If in business, the kind of business and location thereof;

(7) The location of the proposed store for the sale of alcoholic beverages;

(8) The name and address of the owner of the store; and

(9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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

Each application shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00). (1996 Code, § 8-303)

8-304. Applicant to comply with laws. The applicant for a certificate of good moral character 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. (1996 Code, § 8-304)

8-305. Applicant to appear before board of commissioners; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of commissioners for such reasonable examination as may be desired by the board. (1996 Code, § 8-305)

8-306. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the town attorney for review, each of whom shall submit his findings to the board of commissioners within thirty (30) days of the date each application was filed.

The mayor or a majority of the board of commissioners may issue a certificate of moral character to any applicant. The approval of an applicant given by the town shall be in compliance with *Tennessee Code Annotated*, § 57-3-208 and shall be evidenced by a certificate of compliance as a condition precedent to the issuance of a license by the state. (1996 Code, § 8-306)

8-307. Applicants for certificate who have criminal record. No certificate of good moral character 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 good moral character, 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. (1996 Code, § 8-308)

8-308. 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 town. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place or business by way of stock, ownership, loan, partner's interest or otherwise. (1996 Code, § 8-309)

8-309. Where establishments may be located. 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 town, except at locations zoned for that purpose, currently designated as a C-2 zone district use, but in no event shall any establishment be within three hundred feet (300') of a church or school, as measured in a straight line from the nearest corner of a school or church structure to the nearest corner of the structure where the alcoholic beverages be stored or sold. (1996 Code, § 8-310)

8-310. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such stores 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. (1996 Code, § 8-311)

8-311. Limitation on number of retailers. No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1996 Code, § 8-312)

8-312. Sale for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (1996 Code, § 8-313)

8-313. 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. (1996 Code, § 8-314)

8-314. Inspection fee. The Town of Kingston Springs hereby imposes an inspection fee in the amount of eight percent (8%) of the wholesale price of alcoholic beverages supplied by a wholesaler pursuant to and allowed by *Tennessee Code Annotated*, § 57-3-501. Collection and remission of inspection

fees shall be pursuant to *Tennessee Code Annotated*, §§ 57-3-502 and 57-3-503 as to all licensed retailers of alcoholic beverages located within the municipal limits. (1996 Code, § 8-315)

8-315. Manufacturing prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits. (as added by Ord. #06-002, April 2006)

8-316. Display of license. Every retail licensee shall display and post conspicuously in their store premises their requisite license and the signage required in *Tennessee Code Annotated*, § 57-3-204 to carry on business. (1996 Code, § 8-317)

8-317. Curb service. The sale and delivery of alcoholic beverages shall be confined to retail store premises and curb service is prohibited. (1996 Code, § 8-318)

8-318. State law deemed as a municipal violation. The provisions of *Tennessee Code Annotated*, §§ 57-3-210 and 57-3-404 to 57-3-406, regulatory requirements are here and now incorporated by reference as a municipal code of the town, as if fully set forth herein, and violation of any part thereof shall be deemed a municipal code violation. (1996 Code, § 8-319)

8-319. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provisions 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. (1996 Code, § 8-320)