

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

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

- 8-101. Alcoholic beverages subject to regulation.
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- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
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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 this city, except as provided by Tennessee Code Annotated, title 57. (as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-102. Consumption of alcoholic beverages on-premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the code when such sales are conducted within the corporate limits of Maynardville, Tennessee. It is the intent of the board of commissioners that Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Maynardville, Tennessee, the same as if the code sections were copied herein verbatim. (as added by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

¹State law reference

Tennessee Code Annotated, title 57.

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, § 301) for the City of Maynardville general fund, to be paid annually as provided in this chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Maynardville on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-104. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Maynardville shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Maynardville, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-212 of the ordinances of the City of Maynardville, qualify to receive a beer permit from the city. (as added by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-107. 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. 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. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

CHAPTER 2

BEER

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations and penalty.
- 8-217--8-235. Deleted.

8-201. Beer board established. There is hereby created a board which shall be known and designated as the beer board, referred to in this article as the "board." The board shall be composed of five (5) members and each member must and shall be appointed by the majority vote of the board of commissioners of the city. The makeup of the board can consist of any combination of members of the board of commissioners of the city and individual residents of the city, within the required number of five (5) members, provided, however, there shall be a chairman of the board and said chairman must and shall be a member of the board of commissioners of the city and said chairman shall be elected annually by the majority vote of the board. All members of the board shall be compensated in the amount of fifty dollars (\$50.00) for each meeting that is actually attended by such member. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-202. 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 city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives an adequate notice thereof to each member. The board may adjourn a meeting

at any time to another time and place. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-203. 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; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #2009-1A, Aug. 2008, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-205. Powers and duties of the beer board.¹ 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 municipality in accordance with the provisions of this chapter. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-207. Permit required for engaging in beer business.² 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, § 57-5-104(a), shall

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the approved form payable to the City of Maynardville. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-208. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 each successive January 1 to the City of Maynardville, 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. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-209. 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 retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and 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 in his permit.²

¹State law reference

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

²State law references

Tennessee Code Annotated, § 57-5-301(a), provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus

(continued...)

(Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-210. Limitation on number of permits. The number of licenses for the sale of beer are not limited but may be limited in the future upon proper vote and approval of the Board of Commissioners of the City of Maynardville. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer, within three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

²(...continued)

prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a), a local offense.

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹

(2) As the City of Maynardville, Tennessee, has passed a referendum approving the sale of liquor by the drink within the corporate limits of the City of Maynardville, the hours and operation for the sale of beer shall be set and governed pursuant to the rules and regulations set forth by the Tennessee Alcoholic Beverage Commission.²

(3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.³

(4) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person.

(5) Allow drunk persons to loiter about his premises. (Ord. #2010-7A, Oct. 2010, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-213. 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 beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606, for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell

¹State law reference

Tennessee Code Annotated, § 1-3-113(a).

²State law reference

Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the alcoholic beverage commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

³State law reference

Tennessee Code Annotated, § 57-5-106(a).

beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-214. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the Tennessee Responsible Vendor Act of 2006, Tennessee Code Annotated, §§ 57-5-601, et seq.

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the City of Maynardville may impose. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-215. Loss of clerk's certification for sale to minor.² If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission

¹State law reference

Tennessee Code Annotated, § 57-5-108(2).

²State law reference

Tennessee Code Annotated, § 57-5-607.

within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-216. Violations and penalty. Except as provided in § 8-215, 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. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

8-217–8-235. Deleted. (as deleted by Ord. #O-2018-4, Aug. 2018 *Ch1_01-10-23*)

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION

8-301. Inspection fee on retail food store wine licensees.

8-302. Application for certificate.

8-301. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in Tennessee Code Annotated, §§ 57-3-501, et seq., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A), supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #O-2018-5, Dec. 2018 *Ch1_01-10-23*)

8-302. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-806, shall be signed by the mayor, or by any aldermen, a request in writing shall be filed with the recorder giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store. 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. (as added by Ord. #O-2018-5, Dec. 2018 *Ch1_01-10-23*)