

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

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Permitted subject to regulation.  
8-102. Inspection fee.  
8-103. Number of retail businesses limited.

**8-101. Permitted subject to regulation.** It shall be lawful to manufacture, store, transport, sell, distribute, possess and receive alcoholic beverages, subject to the license, payment of taxes, limitations, regulations and conditions provided for in title 57, chapter 3, Tennessee Code Annotated. (1981 Code, § 2-101)

**8-102. Inspection fee.** (1) For the purpose of this section, the following definitions shall apply:

(a) "Alcoholic beverage" as defined in this section means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol spirits, or wine and capable of being consumed by a human being, other than patented medicines, beer, wine, or cider, where the latter three (3) contain an alcoholic content as allowed by state law.

(b) "Retailer" means a person who sells alcoholic beverages for consumption and not for resale.

(c) "Wholesaler" means a person who sells alcoholic beverages to retailers, and shall include distributors, distillers, or any persons making sales to retailers.

(2) There is hereby levied and imposed against all retailers of alcoholic beverages as herein defined an inspection fee at the rate of five percent (5%) on all purchases of alcoholic beverages made by such retailers from wholesales. The fee shall be measured by the wholesale price of the alcoholic beverages sold by

---

<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

the wholesaler and paid by the retailer to the wholesaler, and shall be five percent (5%) of such wholesale price.

(3) The fee levied by this section shall be added by the wholesaler to each invoice for alcoholic beverages sold to each retailer within the City of Millington, and shall be collected by the wholesaler at the time of the sale, or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(4) Each wholesaler making sales to retailers within the City of Millington shall furnish to the city clerk a report monthly, which report shall contain a list of alcoholic beverages sold to each retailer within the City of Millington, the wholesale price of the alcoholic beverages sold to each retailer, the amount of the tax due, and such other information as shall be required by the city clerk. The monthly report shall be furnished to the city clerk not later than the 20th day of the month following that in which the sales were made, and inspection fees collected by the wholesaler from the retailer shall be paid to the city clerk at the time the monthly report is made.

(5) Wholesalers collecting and remitting the above inspection fee to the city shall be entitled to reimbursement for this collection service a sum equal to 5% of the total amount of inspection fees collected and remitted, such reimbursement to be deducted by the wholesaler and shown on the monthly report to the city clerk.

(6) Failure to collect and timely report and/or pay the inspection fee collected shall result in a penalty of 10% of the fee due the city, which shall be paid to the city clerk. The city clerk, or her duly authorized representative, shall have access to the books and records of all wholesalers at reasonable times for the purpose of ascertaining and verifying the taxes due under the provisions of this section.

(7) The city clerk is hereby authorized and empowered to take any and all steps necessary to enforce payment of any inspection fee due under the provisions of this chapter. (1981 Code, § 2-102, as amended by Ord. #2017-10, June 2017)

**8-103. Number of retail businesses limited.** No more than three (3) licenses for the retail sale of alcoholic beverages within the corporate limits shall be issued and outstanding at any one (1) time. There shall be no numerical limit on licenses for on-premises consumption which otherwise conform to this chapter and state law. (as added by Ord. #2015-2, Jan. 2015)

## CHAPTER 2

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

#### 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, duties, and hearings of the beer board.
- 8-206. Permit required--publication--notice.
- 8-207. Conditions and restrictions on beer permits.
- 8-208. Interference with public health, safety and morals prohibited.
- 8-209. No beer permit issued after conviction of certain offenses or after revocation.
- 8-210. Registration and photograph identification cards required.
- 8-211. Prohibited conduct or activities by permit holders, their owners, managers and employees.
- 8-212. Liability of permit holder for acts of agents or employees.
- 8-213. Return of permit upon occurrence of certain events.
- 8-214. Collection of privilege tax.
- 8-215. Civil penalty in lieu of suspension or revocation.
- 8-216. Exemptions.
- 8-217. Special uses permits.
- 8-218. Entertainment recreation center beer permit.
- 8-219. Violations.
- 8-220. Severability.

**8-201. Beer board established.** There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1981 Code, § 2-201)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. When a meeting is necessary, it shall be held immediately before the board of mayor and aldermen regular monthly meeting. The beer board shall give public notice of all meetings in the same manner as public notice is given of special meetings of the board of mayor and aldermen.

---

<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).

Meetings of the beer board may be adjourned to another time and place provided such time and place are announced at the adjourned meeting. (1981 Code, § 2-202, as replaced by Ord. #2017-10, June 2017)

**8-203. Record of beer board proceedings to be kept.** The city clerk shall attend and make a separate 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 beer board members present and absent; the names of the members introducing and seconding motions and resolutions, before the beer board; a copy of each such motion or resolution presented; the vote of each member thereon; and the contents of each beer permit issued by the beer board. (1981 Code, § 2-203)

**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. However, when a quorum is present the affirmative vote of only a simple majority of the members voting shall be required for affirmative action by the beer board. (1981 Code, § 2-204)

**8-205. Powers, duties, and hearings of the beer board.** The beer board shall have the power, and it is hereby directed to regulate the selling, storing, distributing and manufacturing of beer within the City of Millington in accordance with the provisions of this chapter and the laws of the State of Tennessee. It shall have the power to promulgate reasonable rules and regulations for the conduct of its business and the enforcement of this chapter.

The beer board shall hold hearings in accordance with the following:

(1) All matters brought before the beer board will be heard in the following order:

- (a) Requests for continuances;
- (b) Rehearings and decisions where no protests have been received;
- (c) Special hearings;
- (d) Violations in which permit holders are represented by counsel and/or at the request of the police;
- (e) Applications for issuance of beer permits;
- (f) Rehearings and decisions where protests have been received.

(2) Those permit holders charged with violations will be given written notice not less than five (5) days in advance to appear before the beer board to answer charges.

(3) All alleged permit violators at the hearing have the right to plead not guilty to any or all of the charges, to have assistance of counsel, to cross examine witnesses and to testify and present witness(es) and evidence on his or her behalf.

(4) All witnesses in a contested matter before the beer board shall first be sworn in by the city clerk/recorder, a representative from that office authorized to administer an oath or by a certified court reporter prior to any testimony or evidence being given.

(5) Hearsay evidence is admissible in hearings before the Beer board.

(6) The beer board has no power to subpoena or require the presence of any witness.

(7) A transcript recording may be made of all contested beer board hearings. The city clerk/recorder shall be advised by the permit holder, prior to the hearing, that a transcribed recording is required. The cost of such a recording shall be divided equally between the permit holder and the city. All other matters before the beer board shall be tape-recorded.

(8) After hearing all the testimony in a given case, the beer board may take the following action:

(a) Dismiss any and all charges;

(b) Place on probation for up to one (1) year, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(c) Suspend the beer permit for any number of days or indefinitely, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(d) Revoke the beer permit, pursuant to the limitations and restrictions imposed by Tennessee Code Annotated, §§ 57-5-608 and 57-5-108;

(e) Offer a civil monetary penalty as an alternative to suspension or revocation, 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, to a responsible vendor if the permit or license holder and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006.)

(f) Offer a civil monetary penalty as an alternative to suspension or revocation, 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, to a vendor who is not a responsible vendor in accordance with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006), or to a responsible vendor under the same act if the vendor or clerk making the sale to a minor fails to comply with the requirements of Tennessee Code Annotated, §7-5-606.

(g) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days from the date of the hearing within which to pay the civil penalty to the city clerk/recorder

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. The permit holder's payment of the civil penalty shall not affect the options provided by subsection (10) of this section.

(9) In assessing a penalty, the beer board may consider the past record of the permit holder and location.

(10) Upon receiving an adverse ruling by the beer board, an applicant or permit holder shall either:

(a) Accept the decision and penalty; or

(b) File a writ of certiorari in the Shelby County Circuit or Chancery Courts.

(11) The revocation or suspension assessed by the beer board will take effect on the fifteenth (15) day after the beer board decision at 12:01 A.M. and will be continuously enforced throughout the period of suspension or revocation. In the event a permit holder requests a re-hearing or files a Writ of Certiorari, the enforcement period will become effective upon completion of the re-hearing or the disposition of the Writ of Certiorari. (1981 Code, § 2-204, as replaced by Ord. #2017-15, Sept. 2017)

**8-206. ~~Permit required--publication--notice.~~** (1) It shall be unlawful for any business to engage in the sale, distribution, manufacture or storage of beer without a permit issued by the beer board.

(2) Permit applications shall be made upon forms prescribed by the beer board.

(3) When any application for a beer permit is filed, the city clerk shall cause notice of the application to be published in a newspaper of general publication at least two (2) calendar days prior to the applicant's consideration by the beer board. Cost of the publication shall be paid by applicant. Said application shall state:

(a) The name of the owner of the business for which the permit is sought and the name(s) of the person(s) who will operate and/or manage the business on behalf of the owner,

(b) The names and addresses of all persons, firms, corporations, joint-stock companies, syndicates or associations having at least a five percent (5%) ownership interest in the applicant,

(c) The name and address of a representative to receive annual tax notices and other communications from the beer board or the City of Millington,

(d) The name under which the business will operate,

(e) The type permit requested ("on-premises" or "off-premises") only one type permit - either "on-premises" or "off-premises" shall be issued for each location,

(f) The address for which the permit is sought,

(g) If the application is for an "on-premises" permit, identification of any parts of the premises described in section 2-206(10) where beer will be served,

(h) A description of the business that will be operated in the location for which a permit is sought, and

(i) Such other information as the beer board may by regulation require.

(j) There shall be submitted with each application for a beer permit one (1) identical clear frontal photographs of the applicant, at least 2" by 2." If the applicant is other than an individual, the photograph shall be of the president, managing partner or manager, who shall be the same individual to whom notice of an alleged violation of this chapter by the permit holder is to be sent.

(k) If the applicant is the owner of the real property for which the permit is sought, a copy of the deed evidencing its ownership shall be submitted with the application. If the applicant intends to lease the real property for which the permit is sought, a copy of the lease shall be submitted with the applicant.

(4) If the application is for a permit to sell beer at a place of business where beer has not been sold during the twelve (12) months prior to the date of application, the owners of property located within 1,000 feet of the proposed location shall be notified at least one (1) week in advance of the consideration of the application by the beer board. This notice shall contain the information described in subsection (3) above.

(5) Upon the filing of an application for a beer permit, the applicant shall pay a non-refundable application fee of \$250 to the city clerk. Any portion of the application fee in excess of the amount actually used in the investigation of the applicant shall become the property of the City of Millington, to be used for any municipal purpose.

(6) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate or association. Permits shall state the name under which the business is to be operated as well as the name of the owner.

The permit holder shall notify the police department of the name of every person who is employed as operator or manager of the permitted establishment on behalf of the owner not more than five (5) business days after such person begins work. Failure to provide such notice shall be a violation of this chapter.

(7) A permit is valid only for the owner to whom it is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when there is any transfer of ownership or control of stock that changes the ownership or control of fifty percent (50%) or more of the stock of the corporation. If the owner is a partnership or joint venture, a change in ownership shall occur when there is any change in ownership or control of a

partnership or joint venture interest that affects the ownership of a majority interest in the business.

(8) A permit is valid only for the business operating under the name identified in the permit application.

(9) Except as provided in this subsection (9), a permit is valid only for a single location and cannot be transferred to another location. Where the same owner operates two (2) or more restaurants or other businesses within the same building, the owner may operate some or all of such businesses pursuant to the same permit.

(10) An "on-premises" permit shall be valid for decks and patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business, provided the following conditions are met:

(a) Such outdoor serving area is fully screened from public view by hedges or other vegetation or by a fence or wall constructed in accordance with applicable building codes;

(b) Such outdoor serving area complies with all applicable zoning, building, health and safety laws, ordinances and regulations;

(c) No unreasonably loud, disturbing and unnecessary noise, including noise caused by the playing of any radio, phonograph, musical instrument or sound device, created or permitted by the holder of the permit in such outdoor serving area;

(d) The permit holder shall not allow any consumption of beer or other alcoholic beverages on the streets or sidewalks or on the parking lot of the premises for which the permit is held.

(11) An applicant making false statement in the application shall forfeit its permit and shall not be eligible to receive any permit for a period of ten (10) years.

(12) No beer permit shall be issued for any premises that is in violation of applicable zoning, building, fire or safety laws, codes, ordinances or regulations or to any applicant who does not have a current valid business tax license. (1981 Code, § 2-206, modified, as amended by Ord. # 2005-26, Feb. 2006, Ord. #2014-10, Oct. 2014, Ord. #2017-10, June 2017, and Ord. #2019-10, May 2019 *Ch16\_6-29-20*)

**8-207. Conditions and restrictions on beer permits.** (1) Every beer permit shall be restrictive as to the type of beer business authorized. 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 to authorize sales only for consumption "off-premises" or consumption "on-premises". No beer permit will be issued to a spouse, child, other relative, employee or any other person having any interest in the business of a permit holder whose beer permit has been revoked within the past twelve months, nor



shall a permit be issued for any location not in compliance with the zoning laws of the City of Millington.

(2) The holder of an "on-premises" permit must serve at least one hot meal per day at tables provided for that purpose, with a menu available to be read by customers. The establishment must have a minimum seating capacity of forty-eight (48) persons. A minimum of 40% of the gross revenues of each establishment with an "on-premises" permit must be from food sales. This provision shall not apply to any establishment for which the owner holds a valid "on-premises" permit as of April 3, 1995, as long as such establishment is owned by the same owner. It shall apply to all "on-premises" permits issued for establishments that are not subject to "on-premises" permits as of April 3, 1995 and to all "on-premises" permits that are issued to persons or entities who become owners of currently permitted establishments after such date.

(3) It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by the permit. It shall likewise be unlawful for the holder of a beer permit, including a special use permit, to fail to comply with all restrictions or conditions contained in the permit, this chapter and the rules and regulations of the beer board. (1981 Code, § 2-207)

**8-208. Interference with public health, safety and morals prohibited.**

(1) No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety or morals.

(a) No permit will be issued authorizing the storage, sale, distribution or manufacture of beer at premises located within three hundred feet (300') of any school or church, or within two hundred fifty feet (250') of any other place of public gathering. Measurements as slated above shall be measured in a straight line from the nearest properly line of the school or church or other place of public gathering to the (nearest entrance to the establishment) at which beer is lo be sold or manufactured. A cemetery attached to a church on a separate parcel of land shall not constitute a "place of public gathering" in accordance with these provisions, and any measurement for purposes of this section shall be from the nearest properly line of the church, not the properly line of the cemetery.

(b) No permit will be issued authorizing the sale of beer under an "on-premises" permit at an establishment located within two hundred (200) feet of any real property zoned for residential use. Measurements as stated in this subsection shall be measured in a straight line from the nearest property line of the residentially zoned property to the nearest

entrance to the establishment at which beer is to be sold for "on-premises" consumption.

(2) Notwithstanding the provisions of § 8-208(1), a permit to sell, distribute, store or manufacture beer shall not be denied, suspended or revoked on the basis of proximity of the business to a school, church or other place of public gathering if a valid permit has been issued to any business for that same location as of January 1, 1993. This section shall not apply if beer is not stored, sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993.

(3) (a) Notwithstanding the provisions of § 8-208(1), establishments that have current valid permits from the State of Tennessee to sell liquor by the drink on-premises may apply for and be granted permits to sell beer for on-premises consumption, provided that they meet all other requirements for the beer permit.

(b) If an establishment secure an on-premises beer permit issued pursuant to § 8-208(3)(a) above, that beer permit shall automatically terminate effective at the time the establishment ceases to maintain a current valid state license to sell liquor by the drink. (1981 Code, § 2-208, as amended by Ord. #2002-10, Nov. 2002, and Ord. #2019-21, Nov. 2019 *Ch16\_6-29-20*)

**8-209. No permit issued after conviction of certain offenses or after revocation.** (1) No beer permit shall be issued to any applicant if any individual applicant or any person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance that is listed in Tennessee Code Annotated, title 39, chapter 17, part 4, schedules I through V, of any felony or of any crime involving moral turpitude, within the past ten (10) years.

(2) When a beer permit has been revoked, no new beer permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from that date the revocation becomes final and effective. The beer board, in its discretion, may determine that issuance of a beer permit before the expiration of one year from the date the revocation becomes final is appropriate, if the individual applying for such issuance is not the original permit holder or the spouse, child, parent, son-in-law, daughter-in-law, employee or other person having an interest in the business of a permit holder whose permit was revoked. (1981 Code, § 2-209, as replaced by Ord. #2006-11, Nov. 2006)

**8-210. Registration and photograph identification cards required.**

(1) (a) All employees and all other persons acting on behalf of the

permit holder or manager who serve or otherwise come in contact with customers, including waiters, waitresses, bartenders, bouncers and dancers, at any establishment that holds an "on-premises" beer permit, and all owners of any interest in an establishment where beer is sold for "on-premises" consumption who work in the establishment shall maintain, and during all times when they are at work shall have in their possession, a current photograph identification card issued by the Millington Police Department.

(b) All employees and other persons acting on behalf of the permit holder or manager at any establishment that holds an "off-premises" beer permit, including owners who work in any such establishment, shall maintain and during all times when they are at work shall have in their possession a current photograph identification card issued by the Millington Police Department.

(2) Photograph identification cards issued by the Millington Police Department shall be valid for periods of three (3) years from the date of issuance and must be renewed every three (3) years.

(3) Persons required by this § 8-210 to have photograph identification cards must have a valid separate card for each location at which they work.

(4) The fee for each original or renewal photograph identification card shall be \$10.00 and shall be due and payable upon application for each original card and each renewal card.

(5) Applications for photograph identification cards must be made in person during regular weekday business hours at the Millington Police Department.

(6) The holder of any beer permit shall register with the Millington Police Department prior to their beginning work the names and addresses of all persons employed and/or working at the location for which an "on-premises" permit is held. Failure to register such information in a timely manner shall be a violation of this chapter.

(7) Each permit holder shall provide to the Millington Police Department annually, at the time of payment of the privilege tax required by § 8-214, a current list of all persons employed and/or working at the permitted premises.

(8) All persons required by this § 8-210 to secure photograph identification cards who are employed and/or working at establishments with "on-premises" permits when this chapter takes effect shall have not more than thirty (30) days from the effective date hereof to secure such cards. All permit holders required by § 8-210(6) to register employees and/or other persons with the Millington Police Department shall have not more than thirty (30) days from the effective date of this chapter to register. (1981 Code, § 2-210, as amended by Ord. #2006-11, Nov. 2006)

**8-211. Prohibited conduct or activities by beer permit holders, their owners, managers and employees.** It shall be unlawful for any beer permit holder, or any operator or manager of a business with a beer permit, or to the extent applicable to his or her own actions, for any employee of a business with a beer permit, to:

(1) Employ any person convicted for violating any state or local law governing the possession, sale, storage, manufacture, transportation or distribution of intoxicating liquor or beer, or who has more than once been convicted of possession or sale of any controlled substance or the offense of prostitution, or who has been convicted of a felony involving moral turpitude within the past eight (8) years.

(2) Make or allow any sale of beer, or allow consumption of beer or have beer on tables, under an "on-premises" permit between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. It is the intent of this ordinance that the hours for sale or consumption of beer in an establishment with an "on-premises" beer permit shall be the same as the hours set by the State of Tennessee for sale or consumption of alcoholic beverages in establishments with current licenses from the state to serve liquor-by-the-drink.

(3) Make or allow any sale of beer under an "off-premise" permit between the hours of 2:00 A.M., and 7:00 A.M. during any night of the week or from 2:00 A.M. Sunday to 10:00 A.M. Sunday

(4) Allow any loud, unusual or obnoxious noises to emanate from the permitted premises.

(5) Make or allow any sale of beer to a minor or to allow any person to purchase or attempt to purchase any beer on behalf of a minor or for the purpose of making a gift of same to a minor.

(6) Allow any person under the age of eighteen (18) years to perform the duties of a checker or sales person or actually to make sales of beer. Persons under the age of eighteen (18) years of age may be employed as sackers or stock persons in establishments holding "off-premises" permits and as otherwise permitted by law in establishments holding "on-premises" permits.

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

(8) Allow drunk or disreputable persons to loiter about the permitted premises.

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(10) Allow, permit or condone the drinking of beer anywhere on the premises subject to an "off-premises" permit, or anywhere outside the principal building subject to an "on-premises permit" other than as permitted by § 8-206(10) of this chapter.

(11) Allow beer to be sold or consumed when the permitted premises are locked.

(12) Drink or permit any employee to drink any intoxicating beverage of any kind or character while on duty, or to sell or dispense or permit his agents, servants or employees to sell or dispense beer, when the person selling or dispensing beer is drinking intoxicants of any kind or character.

(13) Permit any performer or entertainer in any place or establishment wherein beer is sold or consumed on the premises to:

(a) Publicly perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(b) Publicly engage in actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus or genitals.

(c) Publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals or breasts below the top of the areola of any person.

(d) Publicly wear or use any device or covering exposed to public view which simulates the human breasts, genitals, anus, buttocks, pubic hair or any portion thereof.

(14) Fail to report immediately to the Millington Police Department any disturbance, fight, or altercation in, on or about the premises where beer is sold, pursuant to an "on-premises" permit.

(15) Employ or allow to work in a location with an "on-premises" beer permit any employee, waiter, waitress, bartender or dancer, including any owner of an interest in the business for which the permit is issued, who does not have a current valid photograph identification card for the permitted location in his or her possession while at work.

(16) Fail to register with the Millington Police Department all persons required to be registered under §§ 8-210(6) and (8) or fail to provide to the Millington Police Department at the required time the information described in § 8-210(7).

(17) Furnish false or incomplete information on an application for a beer permit.

(18) Fail to secure or maintain a current City of Millington business tax license.

(19) Fail to keep the premises in compliance with all applicable zoning, building, fire, health and safety laws, codes, ordinances and regulations.

(20) Fail to notify in writing the Millington Beer Board of any change in the ownership of a business subject to a permit, whether it be partnership, proprietorship, or corporation, within fifteen (15) days of such change. (1981 Code, § 2-211, as amended by Ord. #2002-1, March 2002, Ord. #2005-26, Feb. 2006, Ord. #2006-11, Nov. 2006, and Ord. #2019-10, May 2019 *Ch16\_6-19-10*)

**8-212. Liability of permit holder for acts of agents or employees.**

(1) The holder of an "on-premises" permit shall be liable for all acts of

all persons selling or serving beer or admitting patrons and all persons entertaining patrons in an "on-premises" permit establishment.

(2) The holder of an "off premises" permit shall be liable for all acts all persons selling beer in an "off-premises" establishment. (1981 Code, § 2-212, as amended by Ord. #2005-26, Feb. 2006)

**8-213. Return of permit upon occurrence of certain events.** A permit holder must return a permit to the beer board within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name. A permit shall automatically expire upon termination of the business, change in ownership, relocation of the business or change of the business's name, whether or not said permit is returned by the holder. (1981 Code, § 2-213)

**8-214. Collection of privilege tax.** (1) The \$100 per year privilege tax imposed on the business of selling distributing, storing or manufacturing beer in this state by Tennessee Code Annotated, § 57-5-104 (b) (1) shall be due and payable to the City of Millington on January 1, 1994 and on January 1 of each year thereafter. The city shall mail written notice to each permit holder, at the address specified on the permit application, of the payment date of said tax at least thirty (30) days prior to January 1. If a permit holder fails to pay the tax by the later of January 31 or thirty (30) days after such notice was mailed, the city shall notify the permit holder by certified mail, return receipt requested, that the tax payment is past due. The failure to pay the tax required by Tennessee Code Annotated, § 57-5-104(b)(1) shall result in the penalties provided for by, and imposed in accordance with, state law.

(2) Upon issuance of a new permit, the permit holder shall pay the privilege tax on a prorated basis for each month or part of a month remaining until the next tax payment date. (1981 Code, § 2-214)

**8-215. Civil penalty in lieu of suspension or revocation.** Pursuant to Tennessee Code Annotated, § 57-5-108, the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. The board may:

(1) Offer a civil monetary penalty as an alternative to suspension or revocation, 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, to a responsible vendor if the permit or license holder and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006.)

(2) Offer a civil monetary penalty as an alternative to suspension or revocation, 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, to a vendor

who is not a responsible vendor in accordance with the requirements of Tennessee Code Annotated, § 57-5-601 et seq. (Tennessee Responsible Vendor Act of 2006), or to a responsible vendor under the same act if the vendor or clerk making the sale to a minor fails to comply with the requirements of Tennessee Code Annotated, § 57-5-606.

(3) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days from the date of the hearing within which to pay the civil penalty to the city clerk/recorder 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. The permit holder's payment of the civil penalty shall not affect the options provided by subsection 8-205(10). (1981 Code, § 2-215, as amended by Ord. #2005-26, Feb. 2006, and replaced by Ord. #2017-15, Aug. 2017)

**8-216. Exemptions.** This chapter shall in no way affect any post exchange, ship service store, or commissary operated by the United States armed forces. (1981 Code, § 2-216)

**8-217. Special use permits.** (1) Application for a special use beer permit shall be made to the beer board upon forms provided by the beer board at least thirty (30) days prior to the event for which the permit is sought. The beer board reserves the right to waive said thirty (30) day period.

(2) There shall be a fee of fifty dollars (\$50.00) due and payable at the time the application is made for each calendar day requested for the special use permit.

(3) Each special use beer permit shall be valid for a stated period not to exceed seventy-two (72) consecutive hours.

(4) The holder of a special use beer permit shall be liable for the acts of all persons serving beer under such permit.

(5) No special use beer permit shall be valid for the sale and consumption of beer on any premises for which a permit has been revoked within the past twelve (12) month period, nor shall a special use beer permit be used for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five-percent (5%) ownership interest in the establishment that has had any beer permit revoked within the past twelve (12) month period.

(6) No special use beer permit shall be valid for the sale and consumption of beer on any premises within three hundred feet (300') from a church or a school or its playground, unless the catered event is sponsored and held by the church or private school for the benefit of said church or school.

(7) No applicant shall be granted a special use beer permit more than four (4) times in any twelve (12) month period.

(8) No special event permit holder shall permit the sale of beer in any venue or location for which all ingress and egress points are not monitored so

as to prevent the removal of the beer from the area in which the point of sale was made.

(9) The beer board may impose such additional requirements and conditions upon the special use beer permittee and permit as it may deem necessary for the health, safety and security of the citizens of the City of Millington. (1981 Code, § 2-217, as replaced by Ord. #2014-10, Oct. 2014, and amended by Ord. #2017-10, June 2017)

**8-218. Entertainment recreation district beer permit.** (1) An application for an "on-premises" beer permit for the sale within a recreational facility that lies solely within the Millington Entertainment Recreation Zoning District may be submitted to and approved by the beer board.

(2) The "on-premises" permit shall be limited to sales made during the hours of operation of the recreational facility; shall not be subject to the condition imposed in § 8-207(2); but shall be required to follow all other laws, ordinances and restrictions imposed in the Millington Municipal Code in particular title 8 chapter 2.

(3) No permit will be issued authorizing the sale of beer under an "on-premises" permit at an establishment located within two hundred feet (200') of any real property zoned for residential use. Measurements as stated in this subsection shall be measured in a straight line from the nearest property line of the residentially zoned property to the nearest point of sale at which beer is to be sold for "on-premises" consumption at the recreational facility.

(4) The beer board may impose such additional requirements and conditions upon "on-premises" permittee and permit as it may deem necessary for the health, safety and security of the citizens of the City of Millington. (1981 Code, § 2-218, as replaced by Ord. #2022-1, Feb. 2022 ***Ch17\_01-09-23***)

**8-219. Violations.** Any violation of the provisions of this chapter or any rule or regulation of the beer board, or any violation of any law or regulation of the State of Tennessee relative to the sale, distribution, manufacture or storage of beer, shall be a Class A misdemeanor, and where the punishment is not otherwise fixed, the offender shall be punished in accordance with the provisions of the general penalty clause in this official code of the City of Millington. (1981 Code, § 2-219, as replaced by Ord. #2022-1, Feb. 2022 ***Ch17\_01-09-23***)

**8-220. Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #2022-1, Feb. 2022 ***Ch17\_01-09-23***)