

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

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

CHAPTER 1

INTOXICATING LIQUORS²

SECTION

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on premises.
- 8-104. Annual privilege tax to be paid to the town recorder.
- 8-105. Advertisement of alcoholic beverages.
- 8-106. Violations and penalty.

8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise, alcoholic beverages 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 medicine or beer, where the latter contains an alcoholic content as defined in *Tennessee Code Annotated*, § 57-5-101. (Ord. #269, April 2017, modified)

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 said code when such sales are conducted within the corporate limits of Mosheim, Tennessee. It is the intent of the board of mayor

¹Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Employee and server permits: *Tennessee Code Annotated*, §§ 57-3-701, *et seq.*

and aldermen that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in Mosheim, Tennessee the same as if said code sections were copied herein verbatim. (Ord. #269, April 2017)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on premises. Pursuant to (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301, for the Town of Mosheim 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 Town of Mosheim on alcoholic beverages for consumption on the premises where sold. (Ord. #269, April 2017)

8-104. Annual privilege tax to be paid to the town recorder. Any person, firm, corporation, joint stock company, syndicate, or association exercising the privilege of selling alcoholic beverages for consumption the premises in the Town of Mosheim shall remit annually to the town recorder 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 associations failing to make payment of the appropriate tax when due, shall be subject to the penalty provided by law. (Ord. #269, April 2017)

8-105. 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. (Ord. #269, April 2017)

8-106. 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/town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

CHAPTER 2

BEER

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record keeping.
- 8-204. Quorum and action.
- 8-205. Powers and duties.
- 8-206. "Beer" definition.
- 8-207. Permit required.
- 8-208. Permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by permit holders.
- 8-212. Revocation or suspension of permits.
- 8-213. Possession of open intoxicants prohibited.
- 8-214. Violations and penalty.

8-201. Beer board established. The members of the board of mayor and aldermen shall serve as the Beer Board of the Town of Mosheim, Tennessee. (Ord. #45, May 1983)

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 town 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 a reasonable notice thereof. The board may adjourn a meeting at any time to another time and place. (Ord. #45, May 1983)

8-203. Record keeping. 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. (Ord. #45, May 1983)

8-204. 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. #45, May 1983)

8-205. Powers and duties. The beer board shall have the power and is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provision of this chapter. (Ord. #45, May 1983)

8-206. "Beer" definition. The term "beer" shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (Ord. #45, May 1983, as amended by Ord. #266, Feb. 2017)

8-207. Permit required. (1) 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 Mosheim. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter.

(2) 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 person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1, 1994, and each successive January, to the Town of Mosheim, 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.

(3) Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation, 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 or 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.

(4) Timely filing of application for permit to sell beer. All applications for a permit to sell beer must be properly and timely filed with the Town of Mosheim Recorder at least fourteen (14) days prior to consideration of the

application by the beer board. (Ord. #45, May 1983, as amended by Ord. #87, Feb. 1994, and Ord. #140, July 2000)

8-208. 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. Permits for the retail sale of beer may be further restricted by the beer board so as to authorize sale of only unrefrigerated beer 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 board. (Ord. #45, May 1983)

8-209. Interference with public health, safety, and morals. 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 such 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 storage, sale, or manufacture of beer at places within two hundred feet (200') of any school, church, or other such building of public gathering, measured in a straight line from the nearest point on the business building to the nearest point on the school building, church building, or other such building of public gathering. (Ord. #45, May 1983, as amended by Ord. #57, Jan. 1986, and Ord. #117, May 1997, modified)

8-210. 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. (Ord. #45, May 1983)

8-211. Prohibited conduct or activities by permit holders. It shall be unlawful for any beer permit holder to:

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

- (5) Allow drunk or disreputable persons to loiter about his premises.
- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than the definition appearing in *Tennessee Code Annotated*, § 57-5-101; or
- (7) Allow dancing on his premises, unless said establishment has a seating capacity of at least one hundred (100) persons, parking spaces for no fewer than fifty (50) automobiles and, provided further, that said establishment is engaged in serving and selling food no fewer than five (5) days per week and, provided further, that said establishment is located no less than two hundred feet (200') from an existing residential dwelling as measured from building to building in a straight line. (Ord. #45, May 1983, as amended by Ord. #67, May 1990, modified)

8-212. Revocation or suspension of permits. (1) 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.

(2) 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 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.

8-213. Possession of open intoxicants prohibited. It shall be unlawful for any person to possess open beer, wine, or other intoxication beverage at any public place, including streets, sidewalks, public buildings, and parking areas, within the Town of Mosheim, Tennessee. Violation of this provision shall be punishable by a fine in the sum of fifty dollars (\$50.00), together with costs. (Ord. #51, Sept. 1984)

8-214. 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.

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.

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; and
- (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.