

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.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
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- 8-106. Advertisement of alcoholic beverages.
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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/town except as provided by Tennessee Code Annotated, title 57. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, Ord. #2016-12-15A, _____ **Ch3_2-7-19**, and Ord. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

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 Oliver Springs, Tennessee. It is the intent of the board of commissioners that the Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Oliver Springs, Tennessee, the same as if the code sections were copied herein verbatim. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

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, section 301,) for the Town of Oliver Springs 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 Oliver Springs on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

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 on the premises in the Town of Oliver Springs shall remit annually to the town 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. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

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 Town of Oliver Springs, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-212 of the ordinances of the Town of Oliver Springs, qualify to receive a beer permit from the city. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

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. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

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/town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #2019-01-17, Jan. 2019 **Ch3_2-7-19**)

CHAPTER 2

BEER¹

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. Application of new owner.
- 8-209. Types of consumption permits
- 8-210. Public display of license required.
- 8-211. Privilege tax.
- 8-212. Beer permits shall be restrictive.
- 8-213. Limitation on number of permits.
- 8-214. Interference with public health, safety, and morals prohibited.
- 8-215. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-216. Restrictions on permit holder.
- 8-217. Revocation or suspension of beer permit.
- 8-218. Civil penalty in lieu of revocation or suspension.
- 8-219. Loss of clerk's certification for sale to minor.
- 8-220. Violations and penalty.
- 8-221.--8-225. Deleted.

8-201. Beer board established. There is hereby established a beer board to be composed of the town council. The mayor shall be the chairman of the beer board. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

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

¹State 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).

meeting at any time to another time and place. (1989 Code, § 2-202, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3_2-7-19***)

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. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3_2-7-19***)

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. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3_2-7-19***)

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. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, and Ord. #2019-01-17, Jan 2019 ***Ch3_2-7-19***)

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. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B. Feb. 2006, as replaced by Ord. #2016-12-15B, _____ ***Ch3_2-7-19***, and Ord. #2019-01-17, Jan 2019 ***Ch3_2-7-19***)

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

¹State law reference

Tennessee Code Annotated, § 57-5-106.

²State law reference

Tennessee Code Annotated, § 57-5-103.

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 be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Oliver Springs. 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. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-208. Application of new owner. The board shall be furnished with the name of the proposed buyer or transferee, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-209. Types of consumption permits. (1) Permits may be applied for and issued to grocery businesses, for the sale of beer for off premises consumption only. The store must have five thousand dollars (\$5,000.00) wholesale inventory of groceries. For the purpose of this chapter a "grocery business" is hereby defined as a place for the selling of general supplies for the table and household use.

(2) Permits may be applied for and be issued to restaurants for the sale of beer for on premises consumption only. The restaurant shall serve both noon and evening meals; offer a family dining atmosphere; and serve meals which may be consumed within the interior of the restaurant at tables or booths.

(3) For the purpose of this chapter, a "restaurant" is defined as a structure in a commercial zoned district which is designed for, and engaged primarily in, the preparation and sale of meals served by waiters and waitresses for consumption within the structure. Any business which offers drive-up or drive-through service is not a restaurant for the purpose of this paragraph. All establishments within the town limits of Oliver Springs engaged in the lawful and licensed sale of beer for either on premises or off premises consumption prior to July 14, 1984, may continue such lawful sale of beer in accordance with their applicable license until such time as they discontinue beer sales for a continuous period of at least one hundred (100) days. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-210. Public display of license required. (1) Any business that is issued a permit to sell beer is required to publicly display a license to sell beer in accordance with the laws of the State of Tennessee.

(2) The beer board shall issue said license at the same time that it issues the permit to sell beer to the applicant's business.

(3) The failure of a business to comply with the requirement to publicly display said license shall be a violation of the laws of the State of Tennessee and the Town of Oliver Springs. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3_2-7-19**)

8-211. 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 Town of Oliver 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. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3_2-7-19**)

8-212. 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 authorized sales only for off premises consumption. A single permit may be issued for on premise and off premise 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 (Ord.

¹State law reference

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

²State law reference

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/town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City/town courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, §57-5-30(a) a local offense.

#93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-213. Public display of license required. (1) Any business that is issued a permit to sell beer is required to publicly display a license to sell beer in accordance with the laws of the State of Tennessee.

(2) The beer board shall issue said license at the same time that it issues the permit to sell beer to the applicant's business.

(3) The failure of a business to comply with the requirement to publicly display said license shall be a violation of the laws of the State of Tennessee and the Town of Oliver Springs. (Ord. #93-09-02, Sept. 1993, as amended by Ord. #96-10-17, Oct. 1996, and replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-214. 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 five hundred feet (500') 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. (1989 Code, § 2-214, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

18-215. 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:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹ (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(2) As the Town of Oliver Springs, Tennessee has passed a referendum

¹State law reference

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

approving the sale of liquor by the drink within the corporate limits of the Town of Oliver Springs, 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.¹

(3) Make or allow any sale of beer to any person who is not allowed to purchase or consume beer under Tennessee state law.

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

(5) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person. Allow drunk persons to loiter about his premises.

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content as defined in Tennessee Code Annotated, § 57-5-101.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. In addition, it shall be unlawful for any Class 2 on premises permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever.

(8) Identification required prior to sale. Any person, before purchasing or attempting to purchase beer, is required to furnish to the permittee, his or her agent or employee, a photo identification produced by the State of Tennessee, or by any other state or territory of the United States, or any other county of the world, which contains the birth date of the person. All beer sales require a photo identification check to confirm the age of the person, regardless of appearance of the person to be of legal age.

(9) Permittees shall prominently display on or near the cash register where payment for the sale of beer is made and recorded, and on the beer cooler or where beer is merchandised signs not less than six inches (6") high and ten inches (10") wide, which states:

(10) "A MINOR WHO PURCHASES OR ATTEMPTS TO PURCHASE BEER SHALL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW." (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006), and Ord. #2019-01-17, Jan 2019 ***Ch3_2-7-19***)

8-216. Restrictions on permit holder. It shall hereafter be unlawful for any person, firm, corporation or association to engage in the business regulated hereunder to make or permit to be made any sales or distribution of

¹State law reference

Tennessee Code Annotated, § 51-5-106(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).

such beverages to minors; to allow any minor to loiter about such place of business and the burden of establishing the age of any such minor shall be upon the owner or employees of such place of business; all beer sales requires an identification check to confirm age regardless of appearance of purchaser to be of legal age; to employ minors directly in the sale of such beverages; to sell or distribute such beverages to persons who are feebleminded, intoxicated, insane, or otherwise mentally incapacitated; to employ any person who has been convicted of any violation of the state statutes prohibiting the sale, possession, manufacture and transportation of alcoholic beverages or any other crime involving moral turpitude within the past ten (10) years. (Ord. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, amended by Ord. #07-19-07D, July 2007, and replaced by Ord. #2019-01-17, Jan 2019 **Ch3_2-7-19**)

8-217. 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 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. #93-09-02, Sept. 1993, as replaced by Ord. #06-16-02B, Feb. 2006, and Ord. #2019-01-17, Jan 2019 **Ch3_2-7-19**)

8-218. 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 Town of Oliver Springs may impose (as added by Ord. #06-16-02B, Feb. 2006, amended by Ord. #07-19-07D, July 2007, and replaced by Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-219. 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 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. (as added by Ord. #06-16-02B, Feb. 2006, and replaced by Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

8-220. Violations and penalty. Except as provided in § 8-219, 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. (as added by Ord. #06-16-02B, Feb. 2006, and replaced by Ord. #2019-01-17, Jan 2019 *Ch3_2-7-19*)

¹Tennessee law reference

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

²State law reference

Tennessee Code Annotated, § 57-5-607

8-221.--8-225. Deleted. (as deleted by Ord. #2019-01-17, Jan. 2019
Ch3_2-7-19)

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION

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

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. #2019-01-17, Jan. 2019 *Ch3_2-7-19*)

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. #2019-01-17, Jan. 2019 *Ch3_2-7-19*)