

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

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this city/town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, § 39-17-701, *et seq.*

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. There is hereby established a beer board composed of the board of mayor and aldermen. The mayor shall serve as chairman of the board. (1996 Code, § 8-202, modified)

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.

8-203. Records of the beer board and proceedings to be kept. The recorder shall make a record of the proceedings of all meeting of the beer board.

¹Municipal code references

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

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see *Watkins v. Naifeh*, 635 S.W.2d 104 (Tenn. 1982).

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; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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.

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the municipality in accordance with the provisions of this chapter. (1996 Code, § 8-204, modified)

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.

8-207. 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 Petersburg. 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. (1996 Code, § 8-206)

8-208. Privilege tax. 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 on January 1, 1994, and each successive January 1, to the Town of Petersburg, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1996 Code, § 8-207)

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, distribution, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit. (1996 Code, § 8-208, modified)

8-210. Application requirements. Each applicant must explicitly and affirmatively state:

(1) That the applicant has been a resident-citizen of Lincoln County or Marshall County preceding the date of his application;

(2) The location of the premises at which the business shall be conducted;

(3) The owner or owners of such premises and the terms of any lease relative thereto;

(4) The names and addresses of all persons or businesses, who have a financial interest in the beer business proposed to be established;

(5) Whether the applicant will operate the business in person or by agent and, if by agent, the name and address of such agent;

(6) That no persons will be employed in the handling or sale of such beverages; that no person will be employed in the handling or sale of such beverages, who has been convicted within the past ten (10) years of any law against possession, sale, manufacturing or transportation of intoxicating liquors or any crime involving moral turpitude;

(7) That the applicant will not engage in the sale of such beverages except at the place for which the beer board has issued a permit to the applicant;

(8) That no sale of such beverages will be made except in accordance with the permit granted and in accordance with all state laws;

(9) That if the application is for a permit to sell for consumption off the premises, that no sale shall be made for consumption on the premises and that no consumption will be permitted on the premises thereof; and

(10) That no sale will be made to minors. (1996 Code, § 8-211, modified)

8-211. Permit not transferrable. Beer permits shall not be transferrable from one person to another or from one location to another. A new permit is required in the manner provided herein when a holder disposes of his business or transfers to another location. (1996 Code, § 8-212)

8-212. Restrictions on permits that would cause congestions or interfere with public health, safety and morals. No permit authorized in the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or would otherwise interfere with the public health, safety and morals. In determining whether a permit

should be issued, the beer board shall consider the character of the neighborhood, the space available for the building, space available for parking, and the effect of the business on neighboring property. It shall be in the discretion of the beer board to declare whether or not a particular location is a suitable location for the sale of beer. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school or church 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. (1996 Code, § 8-213, modified)

8-213. Prohibited conduct or activities by beer permit holders. 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 years of age in the sale, storage, distribution or manufacture of beer;

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week; except Sunday, or anytime between 12:00 midnight on Saturday night and 12:00 noon on Sundays;

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

(4) Make or allow any sale of beer to a minor;

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

(6) Allow drunk persons to loiter about the premises.

(7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer. (1996 Code, § 8-217, modified)

8-214. 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.

8-215. Civil penalty in lieu of 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. 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 one 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 minor 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 a 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 may impose. (1996 Code, § 8-219, modified)

8-216. Loss of clerk's certification for sale to minor. 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 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.

8-217. Violations and penalty. Except as provided in § 8-216, 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.