

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

1. INTOXICATING LIQUORS.
2. BEER.

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

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8-101. Definitions. "Alcoholic beverages" shall mean alcohol, liquor, spirits, wine, and every liquid containing alcohol, liquor, spirits, and wine capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content defined pursuant to *Tennessee Code Annotated*, § 57-5-101, as from time to time may be amended. (1994 Code, § 8-101, modified)

8-102. Scope of chapter. This chapter shall govern the sale of intoxicating liquor through retail package stores and consumption on premises (liquor-by-the-drink) of alcoholic beverages in the City of Ripley. This chapter is to be read and interpreted in line with *Tennessee Code Annotated*, title 57 as well as the rules and regulations of the Tennessee Alcoholic Beverage Commission. If any provision of this chapter is found to exceed or be contrary to the authority provided in the same, said ordinance provision will be superseded.

Nothing in this chapter regulates the distribution, possession, receipt of, sale, storage, tax upon, or transportation upon any beverage of alcoholic content defined pursuant to *Tennessee Code Annotated*, § 57-5-101, as from time to time

¹State law reference

Tennessee Code Annotated, title 57.

may be amended, and no ordinance related thereto is modified by this chapter. (1994 Code, § 8-102, modified)

8-103. State laws to be complied with. No association, corporation, firm, partnership, or person shall engage in the wholesale, retail or on-premises-consumption ("liquor by the drink") liquor business unless all the necessary state licenses and permits have been obtained. (1994 Code, § 8-103)

8-104. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of the City of Ripley except as provided by *Tennessee Code Annotated*, title 57. (1994 Code, § 8-104)

8-105. Specific rules governing retail package stores.

(1) Application for certificate of good moral character. Before any character certificate, as required by *Tennessee Code Annotated*, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city recorder on a form to be provided by the City of Ripley, giving, inter alia, the following information:

- (a) Name, age and address of applicant.
- (b) Number of years residence in Lauderdale County.
- (c) Occupation or business and length of time engaged in such occupation or business.
- (d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (e) If employed, the name and address of employer.
- (f) If in business, the kind of business and location thereof.
- (g) The location of the proposed store for the sale of alcoholic beverages.
- (h) The name and address of the management of the store.
- (i) If the applicant is a partnership, the name, age and address of each partner, and his or her occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders, and their degrees of ownership of stock in the corporation.

Each application shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00).

An application for certificate of compliance must be submitted by all owners, partners, stockholders and directors of the store, whether same is a firm, partnership or corporation and the failure to reveal the financial interest of any person or corporation shall be grounds for the denial of the certificate of compliance and/or the revocation of the certificate of compliance. No applicant

shall apply individually, as a member of a partnership, or as a stockholder, officer or director on more than one (1) application, or hold any interest in more than one (1) permit at the same time.

A copy of each application form, questionnaire, partnership agreements or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the city application form and shall become a permanent part thereof as if copied verbatim therein. 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. All applications submitted in accordance with this chapter shall be filed with the city recorder at least ten (10) days prior to a regular or special called meeting.

(2) Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages.

(3) Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. Before the issuance of any character certificate or a renewal of the same, an applicant may be required to tender requested documentation for review and/or inspection by the board of mayor and aldermen.

(4) Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the city recorder for review, who shall submit their findings to the board of mayor and aldermen.

The mayor or a majority of the board of mayor and aldermen may, in its sole discretion, issue a certificate of moral character to any qualified applicant.

(5) Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

(6) Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, (which include B-2 and B-5) but in no event shall any establishment be located within three hundred feet (300') of a school, residence, church, hospital, day care, public park, or other place of public gathering, measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the school, residence, church, hospital, day

care, public park, 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, hospital, day care, public park, 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.

(7) Limitation on number of retailers. No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued by the City of Ripley under this chapter.

(8) Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

(9) Inspection fee. The City of Ripley hereby imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501, as from time to time may be amended, on all licensed retailers of alcoholic beverages located within the corporate limits of the city. Said inspection fee shall be collected and administered in line with *Tennessee Code Annotated*, §§ 57-3-502 and 57-3-503, as from time to time may be amended.

(10) Violations. The license holders are responsible at all times for the conduct of their business and all are at all times directly responsible for the conduct of all employees. Any violation of this chapter or of Tennessee or federal law which regulates intoxicating liquors shall constitute a civil offense and shall, upon conviction, be punishable by a penalty as enumerated under the general penalty provisions of this code as well as state and federal law.

(11) Selection of qualified applicants. Whenever there has been determined to be more qualified applicants than licenses available the City of Ripley shall give priority in issuing licenses based on the time of filing of applications.

(12) Hours and times of operation. The hours and dates of operation for retail licensees are controlled by *Tennessee Code Annotated*, § 57-3-406, as from time to time may be amended.

(13) Regulations on premises. All retail establishments must comply with the City of Ripley building and zoning codes. (1994 Code, § 8-105, modified)

8-106. Specific rules governing on-premises consumption.

(1) 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 the City of Ripley, Tennessee. It is the intent of the mayor and board of alderman that the said *Tennessee Code Annotated*, title 57, chapter 4,

inclusive, shall be effective in Ripley, Tennessee, the same as if said code sections were copied herein verbatim.

(2) Restriction on the hours for the sale of intoxicating liquors. There shall not be any intoxicating liquor sold on any Sunday between the hours of 3:00 A.M. and 12:00 P.M. All other times and dates of sales shall be as referenced in *Tennessee Code Annotated*, § 57-4-203, as from time to time may be amended.

(3) 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, as from time to time may be amended, there is hereby levied a privilege tax (in the same amount levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301, for the City of Ripley General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Ripley alcoholic beverages for consumption on the premises where sold.

(4) Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Ripley shall remit annually to the city recorder the approximate tax described in *Tennessee Code Annotated*, § 57-4-301, as from time to time may be amended. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the approximate tax when due shall be subject to the penalty provided by law.

(5) Club application. Any club, as defined in *Tennessee Code Annotated*, title 57 that seeks to obtain a license for on-premises consumption of liquor must make an application to and obtain a permit from the City of Ripley. This application shall be made on such form as the city shall prescribe. Each applicant shall be of good moral character and certify that he has read and is familiar with the provisions of this chapter. Such application shall be in writing and must be filed with the city recorder on a form to be provided by the city. Each application shall be accompanied by a non-refundable investigation fee of four hundred and fifty dollars (\$450.00). A copy of each application form, questionnaire, partnership agreement or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the city application form and shall become a permanent part thereof as if copied verbatim therein. 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. All applications submitted in accordance with this chapter shall be filed with the city recorder at least ten (10) days prior to a regular or special called meeting.

(6) Signage requirements. All establishments authorized under this

section must comply with the City of Ripley zoning code. (1994 Code, § 8-106, modified)

8-107. Number of retail licenses to be held by retailer.¹ No retail licensee shall, directly or indirectly, hold more than one (1) retail license. In no event shall a retail licensee, directly or indirectly, hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county.

¹State law reference

Tennessee Code Annotated, § 57-3-406.

CHAPTER 2

BEER¹

SECTION

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- 8-204. Requirements for beer board quorum and action.
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- 8-210. Beer permits.
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- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen, with the mayor acting as chairman. All members of the beer board shall serve without compensation. (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 at such times and places 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 adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

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

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).

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.

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.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.

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.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall 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 City of Ripley. 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.

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Ripley, Tennessee. At the time a new permit is issued to any business subject

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

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

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

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.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on 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.¹

8-210. Beer permits. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, hospitals, day cares, public parks, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church, hospital, day care, public park, or other place of public

¹State 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 courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*, § 57-5-301(a) a local offense.

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, hospital, day care, public park, 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, hospital, day care, public park, 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. (modified)

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

- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
- (2) Make or allow the sale of beer on Sunday between the hours of 3:00 A.M. and 12:00 P.M. All other times and dates of sales shall be as referenced in *Tennessee Code Annotated*, § 57-4-203, as from time to time may be amended;
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (5) 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 higher than beer.
- (7) Fail to provide and maintain separate sanitary toilet facilities for men and women.
- (8) Beer permit holders without a liquor license shall not allow brown bagging of liquor on their premises. (modified)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a

certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell 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.

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

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

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

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

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city/town may impose.

8-215. Loss of clerk's certification for sale to minor.² If the beer board determines that a clerk of an off-premises beer permit holder certified

¹State law reference
Tennessee Code Annotated, § 57-5-108(2).

²State law reference
Tennessee Code Annotated, § 57-5-607.

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.