

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

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1****INTOXICATING LIQUORS**<sup>2</sup>**SECTION**

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws<sup>3</sup> 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.

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<sup>1</sup>Municipal code reference

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

State law reference

*Tennessee Code Annotated*, title 57.

<sup>2</sup>State law reference

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

<sup>3</sup>State law reference

*Tennessee Code Annotated*, § 39-17-701, *et seq.*

## CHAPTER 2

### BEER

#### SECTION

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**8-201. Beer board established.** There is hereby established a beer board, to be composed of the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. The board of mayor and aldermen shall serve on the beer board without compensation for the term of their election or until their successors shall take office. (Ord. #08-0505, \_\_\_, 2008)

**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 a reasonable notice thereof to each member. The board may adjourn meeting at any time to another time and place. (Ord. #08-0505, \_\_\_, 2008)

**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. #08-0505, \_\_\_, 2008)

**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. #08-0505, \_\_\_, 2008)

**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 this municipality in accordance with the provisions of this chapter. (Ord. #08-0505, \_\_\_, 2008)

**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*, § 57-5-104(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 Three Way. 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. #08-0505, \_\_\_, 2008)

**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 each successive January 1 to the City of Three Way, 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 hereof remaining until the next tax payment date. (Ord. #08-0505, \_\_\_, 2008)

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Permits shall be required for selling at retail, storing, distributing, and manufacturing. The beer board is authorized to issue permits for the sale of beer for consumption on

the premises and for the sale of beer for consumption off the premises. A single permit may be issued for on-premises and off-premises consumption.

Off-premises permits. An off-premises permit shall be issued for the consumption of beer only off the premises of the seller

On-premises permits. On-premises permits shall be issued for the consumption of beer on the premises. To qualify for an on-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter, be a bona fide restaurant. A bona fide restaurant shall be determined as follows:

Seating capacity is a minimum of one hundred (100) and sixty percent (60%) of the gross income of such restaurant is derived from the sale of food.

It shall be grounds for revocation of an existing permit for on-premises consumption if the total dollar volume of sales of the permit holder attributable to such food is less than sixty percent (60%) of the total dollar volume of sales of such food and beer combined.

In determining the ratio of food sales to combined food and beer sales, the permit holder may, at holder's option, utilize sales figures for any one (1) of the following three (3) time periods:

- (1) Most recent calendar year;
- (2) Most recent fiscal year of holder;
- (3) Most recent consecutive twelve (12) month period.

or

Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding forty percent (40%) of its gross sales, shall have its beer permit revoked.

In lieu of submitting financial data, the permit holder may submit the statement of holder's accountant, submitted on the accountant's letterhead stationery and signed by said accountant attesting to the accountant's verification of compliance by holder with this provision.

The board shall also have the power and authority to make special restrictions on individual permits and to include such restrictions in the permits it issues. A violation of any such special restrictions by a holder of a permit shall constitute a violation of this chapter and in addition thereto shall be grounds for revocation of the permit.

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. (Ord. #08-0505, \_\_\_, 2008)

**8-210. Limitation on number of permits.** The number of licenses for the sale of beer shall be limited to ten (10). Seven (7) permits shall be allowed for off-premises consumption and three (3) permits shall be allowed for on-premises consumption permits. (Ord. #08-0505, \_\_\_, 2008)

**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 hospitals, schools, 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 one thousand five hundred feet (1,500') of any hospital, school, church, or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the building property line upon which sits the building from which the beer will be manufactured, stored, or sold to the nearest point on the building property line of the hospital, school, 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 hospital, school, church, or other place of public gathering if 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. (Ord. #08-0505, \_\_\_, 2008)

**8-212. 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. #08-0505, \_\_\_, 2008)

**8-213. Prohibited conduct or activities by beer 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) Make or allow any sale of beer 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 12:00 noon on Sunday;
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age;
- (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 feeble-minded, insane, or otherwise mentally incapacitated person;
- (6) Allow drunk persons to loiter about his premises;
- (7) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than the same definition appearing in *Tennessee Code Annotated*, § 57-5-101;
- (8) Serve or sell or allow to be served or sold beer to any person in or on any motor vehicle or allow any person to consume beer while in a motor vehicle parked on his premises; or

(9) Allow assaults, fighting, damaging of property and breaches of the peace occurring on or in the premises where is sold. (Ord. #08-0505, \_\_\_, 2008, as amended by Ord. #14-0407, May 2014)

**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. (Ord. #08-0505, \_\_\_, 2008)

**8-215. 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. 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 may impose. (Ord. #08-0505, \_\_\_, 2008)

**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 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. (Ord. #08-0505, \_\_\_, 2008)

**8-217. 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. (Ord. #08-0505, \_\_\_, 2008)