

TITLE 8

ALCOHOLIC BEVERAGES¹

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. "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.

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 2.

²State law reference

Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (1994 Code, § 8-201)

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 a meeting at any time to another time and place. (1994 Code, § 8-202)

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5, chapter 4.

State 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).

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; 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. (1994 Code, § 8-203)

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. (1994 Code, § 8-204)

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 city in accordance with the provisions of this chapter. (1994 Code, § 8-205)

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 and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Whitwell. 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. (1994 Code, § 8-207)

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 City of Whitwell, 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. (1994 Code, § 8-208)

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. 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 beer board. (1994 Code, § 8-209)

8-210. 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. No license or permit shall be granted which authorizes the sale, storage, or manufacture of such beer or beverages within one hundred seventy-five feet (175') of any school or church. (1994 Code, § 8-210)

8-211. 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. (1994 Code, § 8-211)

8-212. 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 after the hours of 12:00 midnight and before 8:00 A.M. Monday through Saturday, or Sundays before 12:00 noon and after 12:00 midnight;
- (3) Allow any loud, unusual, or obnoxious noises to emanate from his premises;
- (4) Make or allow any sale of beer to a person under twenty-one (21) years of age;
- (5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business;
- (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 higher than beer.
- (8) Allow dancing on his premises; or
- (9) Allow pool or billiard playing in the same room where beer is sold and/or consumed. (1994 Code, § 8-212, modified)

8-213. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke 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. Complaints brought for the purpose of suspending or revoking such licenses shall be made in writing and filed with the chairman of said board, who shall thereupon give or cause to be given written notice, accompanied by a copy of such written complaint, commanding the person, persons, firm, corporation, or association to appear at a time and place designated in said notice before said board and show cause why such license should not be suspended or revoked, such notice to be served either by registered letter or by any police officer of the City of Whitwell, at least five (5) days prior to the date of the hearing when such person, persons, firm, corporation, or association is cited to appear. Upon the hearing, said board shall publicly hear and determine the nature and merits of the complaint, and for this purpose the chairman of said board is authorized to compel the attendance of witnesses by subpoena, and after such hearing said board may, for proper cause, suspend or revoke such license. (1994 Code, § 8-213)

8-214. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, 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 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. (1994 Code, § 8-214)

8-215. License non-transferable. The license specified hereunder, when issued, shall not be transferable to any other person, persons, firm, corporation, or association. (1994 Code, § 8-215)

8-216. New location. When any person shall move the location of the place of business where such beverages are sold, then in all cases he shall be required to obtain from the city a new license in the manner herein provided by application to said board therefor. (1994 Code, § 8-216)