

**TITLE 8**

**ALCOHOLIC BEVERAGES<sup>1</sup>**

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

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**8-101. Definitions.** (1) "Alcoholic beverages" shall mean and include alcohol, spirits, liquor, wine and every other liquid containing alcohol, spirits or wine capable of being consumed by a human being, other than patented

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<sup>1</sup>Municipal code references

Motor vehicles, traffic, etc.: title 15.

Public drunkenness etc.: title 11, chapter 2.

medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight or less.

(2) "Beer" shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.<sup>1</sup> (Ord. #15-004, June 2015)

**8-102. Drinking alcoholic beverages on streets.** It shall be unlawful for any person to drink or consume alcoholic beverages or have an open alcoholic beverage container in or on any public street, avenue, alley, highway, sidewalk, public park, public school ground or other public place within the city limits.

The city council may grant an exception to this prohibition on special occasions. A person may apply for an exception to this prohibition by making application to the city council on an application form that may be obtained from the city recorder. The exception may be granted by a resolution approved by the city council for a specific time and place. (Ord. #15-004, June 2015, as amended by Ord. #17-006, Sept. 2017)

**8-103. 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 this city except as provided by Tennessee Code Annotated, title 57. (Ord. #15-004, June 2015)

**8-104. Application for certificate of compliance.** Before any 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 city council, an application in writing shall be filed with the city administrator on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Evidence of U.S. Citizen.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) 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.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.

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<sup>1</sup>State law reference

Similar provisions: Tennessee Code Annotated, § 57-3-101(1).

(a) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer.

(b) If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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.

Each application shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00). (Ord. #15-004, June 2015, modified)

**8-105. Applicant to agree to comply with laws.** The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws, the ordinances of the city, and the rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages. (Ord. #15-004, June 2015)

**8-106. Applicant to appear before mayor and council: duty to give information.** An applicant for a certificate of compliance may be required to appear in person before the mayor and city council for such reasonable examination as may be desired by the council. (Ord. #15-004, June 2015)

**8-107. Action on application.** Every application for a certificate of compliance shall be referred to the chief of police for investigation, the building inspector for verification and to the city attorney for review, each of whom shall submit their findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed.

The board of mayor and council may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the council. (Ord. #15-004, June 2015)

**8-108. Residency requirement.** The applicant for a certificate of compliance shall be a U.S. Citizen. (Ord. #15-004, June 2015)

**8-109. Applicants for certificate who have criminal record.** No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting or regulating the sale, possession, transportation, storage, manufacturing or otherwise handling of intoxicating liquors, or who has during such period been

engaged in business, alone or with others, in violation of such laws. (Ord. #15-004, June 2015)

**8-110. 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. (Ord. #15-004, June 2015)

**8-111. 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 within the boundaries of the downtown economic development zone established pursuant to the Courthouse Square Revitalization Pilot Project Act of 2005, (B-2) Central Business District and in any B-1 Neighborhood Business district designated B-1 on the Zoning Map of the City of Bolivar.

(1) No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

(2) All establishments must contain a one thousand (1,000) square foot minimum of open showroom display space.

(3) Any establishment which sells liquor pursuant to this chapter shall be located a minimum distance of five hundred feet (500') (as measured nearest point-to-point on each property line) from any church, school or related educational facility. (Ord. #15-004, June 2015, as amended by Ord. #15-006, Oct. 2015, and Ord. #17-008, Dec. 2017)

**8-112. Limitations on number of retailers.** There shall be no limit on the number of retail licenses for the sale of alcoholic beverages issued under this chapter. (Ord. #15-004, June 2015)

**8-113. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption on the premises of the seller. (Ord. #15-004, June 2015)

**8-114. Amusement devices and seating facilities prohibited in retail establishments.** No pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retailer establishment. No seating facilities shall be provided for persons other than employees. (Ord. #15-004, June 2015)

**8-115. Signage requirements.** All establishments authorized under this section must comply with the City of Bolivar Zoning Ordinance for sign requirements. (Ord. #15-004, June 2015)

**8-116. Inspection fee.** The City of Bolivar hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (Ord. #15-004, June 2015)

**8-117. 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 judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (Ord. #15-004, June 2015)

**CHAPTER 2****BEER<sup>1</sup>****SECTION**

- 8-201. Beer board--created.
- 8-202. Composition; compensation; chairman, secretary.
- 8-203. Meetings.
- 8-204. Quorum; voting.
- 8-205. Powers and duties generally.
- 8-206. Presentation of applications to administrator prior to board meeting.
- 8-207. Board to investigate permit applicants; assistance by chief of police.
- 8-208. Investigation of permit holders charged with violations.
- 8-209. Violations to be reported; cooperation by police.
- 8-210. Record of beer board proceedings.
- 8-211. Permit required for engaging in beer business.
- 8-212. Issuance of permits.
- 8-213. No refunds for permits or fees.
- 8-214. Permits restrictive.
- 8-215. Permit to business detrimental to public health, safety or morals prohibited.
- 8-216. Permit not to be issued to persons convicted of certain crimes.
- 8-217. Prohibited activities by permit holders.
- 8-218. Location restriction.
- 8-219. Privilege tax.
- 8-220. Civil penalty in lieu of suspension.
- 8-221. Applicant making false statement.

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<sup>1</sup>Municipal code references  
Tax provisions: title 5.

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).

Beer and alcoholic beverages of less than five (5) percent: Tennessee Code Annotated, § 57-5-101.

**8-201. Beer board--created.** There is hereby created a board to be known as "The Beer Board of the City of Bolivar."<sup>1</sup> (1998 Code, § 8-201)

**8-202. Composition; compensation; chairman, secretary.** (1) The beer board shall consist of the mayor and city council and they shall serve without additional compensation.

(2) A chairman shall be elected annually by the board from among its members, and the city administrator shall serve as secretary to the board. (1998 Code, § 8-202, modified)

**8-203. Meetings.** 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. (1998 Code, § 8-203)

**8-204. Quorum; voting.** 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 entire beer board and not a majority of the members present. Any member present, but not voting, shall be deemed to have cast a nay vote. (1998 Code, § 8-204)

**8-205. Powers and duties generally.** The beer board shall have the power and it is hereby directed to regulate the sale, storage for sale, distribution for sale, and manufacture of beer within the city in accordance with the provisions of this chapter. (1998 Code, § 8-205)

**8-206. Presentation of applications to administrator prior to board meeting.** All beer applications must be presented to the administrator ten (10) days before the beer board meeting and notice of that application will appear in a local newspaper before the meeting. (1998 Code, § 8-206, modified)

**8-207. Board to investigate permit applicants; assistance by chief of police.** The beer board shall make an investigation of each applicant for a permit to sell beer or other beverages of like alcoholic content to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a permit and the location is a suitable place for the

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<sup>1</sup>State law reference

Authority to establish beer board: Tennessee Code Annotated, § 57-5-106.

sale of beer or other beverages of like alcoholic content. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any applicant. It shall be the duty of the chief of police to cooperate with the beer board in making investigations of applicants and their prospective locations. (1998 Code, § 8-207)

**8-208. Investigation of permit holders charged with violations.**

When any holder of a permit for the sale of beer or other beverages of like alcoholic content is charged with the violation of any of the laws of the state, this code or other ordinances of the city, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoenas for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after a hearing, may suspend any beer permit for a period of up to six (6) months for the first violation of this chapter and may revoke any beer permit for a second violation committed within twenty-four (24) months of the first violation. (1998 Code, § 8-208)

**8-209. Violations to be reported; cooperation by police.** It shall be the duty of the police officers and inspectors to report to the beer board any violation of the laws of the state, this code or other ordinances, rules and regulations of the city by any person to whom a permit under this chapter has been issued. All police officers shall cooperate with and furnish all information requested by the beer board. (1998 Code, § 8-209)

**8-210. Record of beer board proceedings.** The city administrator, as secretary to the beer board, shall make and keep a record of the proceedings of all meetings of the board. Such record shall be public 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. (1998 Code, § 8-210, modified)

**8-211. 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 or bank money order payable to the City of Bolivar. Each applicant must be twenty-one (21) years of age or older and be a person of good moral character and certify



that he has read and is familiar with the provisions of this chapter. All applicants shall disclose the following information in their application:

- (1) Name of the applicant;
- (2) Name of applicant's business;
- (3) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;
- (4) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption. If a holder of a beer permit for either off-premises consumption or on-premises consumption desires to change the permit holder's method of sale, the permit holder shall apply to the beer board for a new permit; and
- (5) Whether or not the applicant has been issued a permit to sell beer;
- (6) Whether or not the application has applied for a permit to sell beer within the preceding two (2) years.<sup>1</sup> (1998 Code, § 8-211)

**8-212. Issuance of permits.** Permits shall be issued to the owner of the business or other entity responsible for the premises for which the permit is sought, whether a person, firm, corporation, joint-stock company, syndicate, association, or governmental entity where the governing body has authorized such sales of beer.

**8-213. No refunds for permits or fees.** No refund will be made for beer permits or renewal fees once they have been received by the city. (1998 Code, § 8-213)

**8-214. Permits restrictive.** All beer permits shall be restrictive as to the type of beer business authorized therefore. Separate permits shall be required for selling at retail, storing, distributing and manufacturing. Beer permits for the retail sale of beer shall be restricted so as to authorize sales for on-premise or off-premise consumption and no sale shall be made for on-premise consumption unless the permit specifically so states. No permit shall provide for on-premise and off-premise consumption. No permit shall issue for on-premise consumption unless the business is a restaurant serving at least one (1) hot meal per day at least five (5) days per week. The service of meals shall be the principal business of the restaurant and the meals must be prepared on premises in kitchen facilities located on the premises of the restaurant. The restaurant must have facilities to serve a minimum of twenty-five (25) persons at tables and/or booths and provide separate restroom facilities for men and women having access thereto from inside of the restaurant. The restaurant must

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<sup>1</sup>State law reference

Local permit required: Tennessee Code Annotated, § 57-5-104.

maintain a health department inspection score of not less than eighty (80). No person may be served beer for consumption on premises for whom seating is not provided in the restaurant. At least sixty percent (60%) of the business revenue shall be derived from the sale of food. The restaurant shall have a printed menu containing the price of food and beverages. (1998 Code, § 8-214)

**8-215. Permit to business detrimental to public health, safety or morals prohibited.** No permit authorizing the sale of beer shall be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety and morals. (1998 Code, § 8-215)

**8-216. Permit not to be issued to persons convicted of certain crimes.** No person shall be issued any permit who has been convicted of any violation of the laws against possession, sale, manufacturing or transportation of beer or other alcoholic beverages or the manufacture, deliver, sale or possession with intent to manufacture, deliver or sale any controlled substance or any crime involving moral turpitude within the past ten (10) years be issued. No permit shall be issued to any location that has had its permit revoked within the past twenty-four (24) months. (1998 Code, § 8-216)

**8-217. Prohibited activities by permit holders.** It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted of the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) To employ any minor in the sale, storage, distribution, or manufacture of beer.
- (3) Sell or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week or before 12:00 noon on Sunday.
- (4) Sell or allow the sale of beer to a person under twenty-one (21) years of age.
- (5) Allow any minor to loiter in or about his place of business.
- (6) Sell or allow the sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow drunk or disreputable persons to loiter about the licensed premises.
- (8) Serve, sell or allow the consumption on premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight, unless the business has a permit for the sale of liquor by the drink.
- (9) Allow dancing on the licensed premises.

(10) Allow pool or billiard playing in the same room where beer is sold or consumed.<sup>1</sup> (1998 Code, § 8-217)

**8-218. Location restriction.** Any establishment which sells beer shall be located a minimum distance of five hundred feet (500') (property corner to property corner) from any church, school or related educational facility. (1998 Code, § 8-218)

**8-219. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual 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 Bolivar, 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. (1998 Code, § 8-219)

**8-220. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a suspension, offer a permit holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00). If a civil penalty is offered as an alternative to a suspension the permit holder shall have seven (7) days within which to pay the civil penalty before the suspension shall be imposed. If the civil penalty is paid within that time, the suspension shall be deemed withdrawn. (1998 Code, § 8-220)

**8-221. Applicant making false statement.** Any applicant making a false statement in their application shall forfeit such applicant's permit and shall not be eligible to receive any permit for a period of ten (10) years. (1998 Code, § 8-221)

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<sup>1</sup>State law references

Sales to minors, possession by minors, allowing minors to loiter on premises, hours of sale, etc.: Tennessee Code Annotated, § 57-5-301.  
Sale in pool or billiard rooms: Tennessee Code Annotated, § 57-5-302.

**CHAPTER 3**

**WINE IN RETAIL FOOD STORES**

**SECTION**

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

**8-301. Inspection fee on retail food store wine licensees.** Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et. al., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be eight percent (8%) 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. #16-006, Dec. 2016)