

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

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws<sup>2</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 town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1983 Code, § 2-101)

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<sup>1</sup>Municipal code reference

Drinking beer, etc., on streets: § 11-101.

Minors in beer places: § 11-102.

State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board established.
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**8-201. Beer board established.** There is hereby established a beer board to be composed of the members of the city council. The mayor shall be chairman of the beer board. (1983 Code, § 2-201)

**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. (1983 Code, § 2-202)

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<sup>1</sup>Municipal code references

Drinking beer, etc., on streets: § 11-101.

Minors in beer places: § 11-102.

Wholesale beer tax: 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. (1983 Code, § 2-203)

**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. (1983 Code, § 2-204)

**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 town in accordance with the provisions of this chapter. (1983 Code, § 2-205)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1983 Code, § 2-206)

**8-207. Permit required for engaging in beer business.** It is 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 is to be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), 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 check payable to the City of Carthage. Each applicant must be a person of good moral character and he/she must certify that he/she has read and is familiar with the provisions of this chapter. (1983 Code, § 2-207, modified, as replaced by Ord. #360, Dec. 2007)

**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 Carthage. 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 of each month or portion thereof remaining until the next tax payment date. (1983 Code, § 2-208, as replaced by Ord. #360, Dec. 2007)

**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. It shall be unlawful for any beer permit holder to engage in any type of phase of the beer business not expressly authorized by his/her permit. It shall likewise be unlawful for him/her not to comply with any and all express restrictions or conditions in his/her permit. (1983 Code, § 2-209, as replaced by Ord. #360, Dec. 2007)

**8-210. Limitation on number of permits.** Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits to the city at the date of the passage of this section shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment or building purchased. (1983 Code, § 2-210, as replaced by Ord. #360, Dec. 2007)

**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 or other places of public gatherings, 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 or other place of public gathering, defined as a public place which frequently has more than fifty (50) persons in attendance at a single time, event or gathering. The distance 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 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, or other place of public gathering if a valid permit has 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. The beer board has the absolute discretion as to grant the distance variance based on the facts and circumstances of each individual variance request. (1983 Code, § 2-211, as replaced by Ord. #360, Dec. 2007)

**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 between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday;
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his/her 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/her premises;
- (6) Serve, sell or allow the consumption on his/her premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight;
- (7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1983 Code, § 2-212, modified, as replaced by Ord. #360, Dec. 2007)

**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/her 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 may be initiated by the police chief or 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 under 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. (1983 Code, § 2-213, as replaced by Ord. #360, Dec. 2007)

**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. 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 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 of the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as replaced by Ord. #360, Dec. 2007)

**8-215. Loss of clerk's certification for sale to minors.** 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. (as replaced by Ord. #360, Dec. 2007)

**8-216. Violations.** 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 continues shall constitute a separate offense. (as added by Ord. #360, Dec. 2007)