

**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.** It shall be unlawful for any person to manufacture, store for resale or sell any alcoholic beverage capable of being consumed by a human being, other than patent and prescribed medicine, with an alcoholic content of more than five percent (5%) by weight except as provided in Section 57-3-207(e). (Ord. #\_\_, Oct. 1950, modified)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

## CHAPTER 2

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

#### SECTION

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**8-201. Purpose.** This chapter is adopted to regulate the sale of beer or other beverages of like content as herein defined, within the corporate limits of the Town of Cornersville, Tennessee. (Ord. #93-09, Feb. 1994)

**8-202. Definitions.** The following definitions are applicable to this chapter:

- (1) "Beer" shall mean all beer of alcohol content of not more than five percent (5%) by weight, or any other beverage of like content, except wine as defined in Tennessee Code Annotated, § 57-3-101.

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<sup>1</sup>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).

(2) "Beer board" shall mean beer board as hereinafter established in § 8-203.

(3) "Board" shall mean the board of mayor and aldermen of the Town of Cornersville, Tennessee.

(4) "Mayor" shall mean the mayor of the Town of Cornersville or vice mayor when acting in the absence of mayor.

(5) "Person" shall mean person, firm, corporation, joint-stock company, syndicate or association.

(6) "Premises" shall be the interior of a building or structure including contiguous interior spaces which are not separated by a permanent solid wall from other portions of the building or structure under the same roof, and where applicable shall include the parking areas adjacent to or servicing the premises.

(7) "Town" shall mean the Town of Cornersville, Tennessee. (Ord. #93-09, Feb. 1994)

**8-203. Beer board established.** There is hereby established a beer board to be composed of three (3) members appointed by the mayor and approved by the board, each of whom shall hold office for one (1) year or until their successors are appointed. Members of the beer board shall be residents of the town and shall receive no compensation. An annual organizational meeting of the beer board shall be held in July of each year and from its membership shall be elected a chairman and secretary. (Ord. #93-09, Feb. 1994)

**8-204. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The beer board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board a special meeting may be called either by the chairman or by a majority of the members. Notice of the annual, regular or special meetings shall be given to each member of the beer board, parties in interest and the general public. (Ord. #93-09, Feb. 1994)

**8-205. Records of the beer board.** The secretary shall keep minutes of the meetings and proceedings of the beer board, which shall be a public record and shall contain the dates of all meetings, the names of board members present and a record of all matters heard by the board and any action taken thereon. The secretary shall maintain a list of the names and addresses of all holders of beer permits. (Ord. #93-09, Feb. 1994)

**8-206. Requirements for beer board quorum and action.** The attendance of a majority of the members of the beer board shall constitute a quorum for the purposes of transacting business. Matters before the board shall

be decided by a majority of the members present. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #93-09, Feb. 1994)

**8-207. Powers and duties of the beer board.** The beer board shall have the authority to regulate the transporting, storing, selling, distributing, possessing or receiving of beer within the town in accordance with the provisions of this chapter. The board is hereby given broad powers to investigate and shall have authority to inspect the premises of any applicant or permit holder at reasonable hours. (Ord. #93-09, Feb. 1994)

**8-208. Permit required for engaging in beer business.** It shall be unlawful for any person to sell or store for sale, beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the beer board shall prescribe and/or furnish and, pursuant to Tennessee Code Annotated, § 57-5-104(a), the application shall be accompanied by a non-refundable application fee of \$250.00 in the form of a cashier's check payable to the town. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #93-09, Feb. 1994)

**8-209. Privilege tax.** There is hereby imposed on the business of selling beer an annual privilege tax of one hundred dollars (\$100.00). Any person engaged in the sale of beer shall remit the tax on January 1, 19\_\_ and each successive January 1 to the town. Notice to each permit holder shall be mailed to the address specified on the permit. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, the town shall notify the permit holder by certified mail that the tax payment is past due. If the permit holder does not pay the tax within ten (10) days after receiving such notice, then the permit shall be void and shall not be reinstated without a new applicant and application fee being submitted to the beer board. 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. (Ord. #93-09, Feb. 1994, modified)

**8-210. Restrictions on granting permits.** No permit shall be issued to sell beer in violation of any state law, town ordinance, or this chapter or any amendment thereto. The judgment of the beer board on such matters shall be final except subject to review pursuant to Tennessee Code Annotated, § 57-5-109. (Ord. #93-09, Feb. 1994)

**8-211. Application and issuance of permits.** Applications shall be issued only to the owner of the business and each applicant must state:

- (1) The applicant's permanent address;
- (2) The location of the premises at which the business shall be conducted;
- (3) The owner or owners of the premises and the terms of any lease relative thereto;
- (4) The names and addresses of all persons having a financial interest in the beer business proposed to be established;
- (5) The name and address of person operating the business;
- (6) No person will be employed in the handling or sale of beer that has been convicted within the past ten (10) years of any law against possession, sale, manufacturing or transportation of alcohol or any crime involving moral turpitude;
- (7) That applicant will not engage in the sale of beer except on the premises for which the permit has been issued;
- (8) That no sale of alcohol will be made except in accordance with the permit and in accordance with all state laws;
- (9) If the application is for a permit to sale for consumption off premises, that no sale shall be made for consumption on premises and no consumption will be permitted on the premises;
- (10) No sale shall be made to minors;
- (11) Such other information as may be requested on the application for beer permit. (Ord. #93-09, Feb. 1994)

**8-212. Beer permits restricted to certain businesses.** The board shall only issue or renew permits:

- (1) To sell at retail in packages for off premises consumption, if the business satisfies the requirements of § 8-214.
- (2) To a local chapter of a nationally organized and recognized club or lodge wherein beer may be sold at retail to its members to be consumed on the premises of the club or lodge; or
- (3) To sell at retail to be consumed on the premises subject to the limitations and regulations of this chapter and the following limitations and regulations.
  - (a) Meals must be actually and regularly served at the premises and such premises must have adequate equipment to prepare meals which must be served at least two (2) times per day, six days per week, and, unless a motel or hotel, the serving of meals shall be the principal business conducted on the premises.

(b) All state and local health and sanitation requirements relative to the equipment for handling food and cleaning dishes, drinking glasses and other utensils must be strictly complied with.

(c) Premises must have a seating capacity for not less than 40 persons at tables and chairs, nor more than 10 counter seats for each 40 seats at tables and chairs.

(d) Beer must be served in containers other than bottles and cans.

(e) No signs or displays shall be on the exterior of the premises or signs and displays on the interior of the premises visible from the exterior which indicate or advertise that beer may be purchased at the premises.

(f) Within 30 minutes after the time each day when sale of beer becomes unlawful, any person holding an on-premises permit shall remove or cause to be removed from all tables, counters and other places where beer is served or consumed all glasses and other containers with beer therein and except for said 30 minute period he shall keep said containers properly stored during all hours when the sale of beer on the premises is unlawful.

(g) All premises shall be of such design that the interior can easily be seen from the exterior and no curtains, drapes, shades, blinds, screens or other thing shall be used to hinder a clear and unobstructed view of the interior of the premises from the exterior and such design shall be approved by the beer board.

(h) All premises shall have adequate and separate toilet facilities for men and women. The toilet facilities shall be so arranged and of such construction that they can be maintained and kept in a clean and sanitary condition and state of repair.

(i) All premises shall have at least two (2) entrances which shall not be locked while beer is being sold or consumed on the premises by any person.

(j) All premises shall have of the street parking of not less than one (1) space per three occupancy capacity, or one (1) space per 50 square feet of floor area, or one (1) space per table, whichever is greater. (Ord. #93-09, Feb. 1994, modified)

**8-213. 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, churches or other places of public gathering or would otherwise interfere with the public health, safety and moral. It shall be in the discretion of the beer board to declare whether or not a particular location is a suitable location for the

sale of beer. In determining whether a permit should be issued, the beer board shall consider the character of the neighborhood, the space available for the building, space available for parking, and the affect of the business on neighboring property. (Ord. #93-09, Feb. 1994)

**8-214. Requirements of retail stores.** The beer board shall not issue a permit to sale beer except at retail in packages by a duly licensed business where the sale of food products, groceries and other items represent at least seventy-five percent (75%) of the total inventory carried for sale by the business and the inventory of beer shall not at any time exceed twenty-five percent (25%) of the total value of all inventory for said business. Consumption of beer shall not be permitted on the premises. (Ord. #93-09, Feb. 1994, modified)

**8-215. Issuance of permits of persons convicted of certain crimes prohibited.** No beer permits shall be issued to any person who has been convicted for possession, sale, manufacture or transportation of alcohol or any crime involving moral turpitude within the past ten (10) years. (Ord. #93-09, Feb. 1994)

**8-216. Prohibited conduct or activities by 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 alcohol or any crime involving moral turpitude within the past ten (10) years;

(2) Employ any person under the age of eighteen (18) years in the sale, storage, distribution or manufacture of beer; however, this provision shall not apply to grocery stores selling beer for off premises consumption;

(3) Make or allow any sale of beer, or make, cause or allow to be made any gift thereof, between the hours of 12:00 midnight and 6:00 A.M. each day of the week including Sunday and in addition, between the hours of 6:00 A.M. and 1:00 P.M. on Sunday;

(4) Allow any loud, unusual or obnoxious noises to emanate from the premises;

(5) Make or allow sale of beer to any person under the age of twenty-one (21) years. The holder of the beer permit shall be strictly accountable for the violation of this provision and the burden of ascertaining the age of such person shall be upon the holder and operator, or their servants, of such place of business;

(6) Allow any person under nineteen (19) years of age to loiter in or about the premises;

(7) Make or allow any sale or gift of beer to any intoxicated person or to any feeble minded, insane or otherwise mentally incapacitated person;

- (8) Allow a drunk or disreputable person to loiter about the business;
- (9) Serve, sale, give or allow the consumption on the premises of any alcohol beverage with the alcohol content of more than five percent (5%) by weight;
- (10) Allow gambling, dancing or playing of pool or billiards on the premises;
- (11) Permit the consumption of beer on the parking lot which services and/or is adjacent to the premises which the permit holder has any interest in or control over. (Ord. #93-09, Feb. 1994, modified)

**8-217. Permit must be in the name of person owning business.** The permit issued by the beer board shall be in the name of the person owning the business rather than the manager, operator or employee of the owner. (Ord. #93-09, Feb. 1994)

**8-218. Permit to be posted.** Permits issued by the beer board shall be posted in a conspicuous place inside the premises. (Ord. #93-09, Feb. 1994)

**8-219. Premises selling beer subject to inspection.** All premises where beer is sold are subject to inspection by the beer board members and town police during any hours the premises are open. (Ord. #93-09, Feb. 1994)

**8-220. Revocation of beer permits.** The beer board shall have the power to 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 its application or violating any provisions of this chapter or any law of the State of Tennessee in regard to selling and storing for sale beer. However, no beer permit shall be revoked until a public hearing is held by the beer board after reasonable notice to all known parties in interest, beer board members and the general public. Revocation proceedings may be initiated by the police chief or any member of the board or beer board. (Ord. #93-09, Feb. 1994)

**8-221. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500.00 for each offense of making or permitting to be made any sales to persons under the age of twenty-one (21) years or, a civil penalty not to exceed \$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. (Ord. #93-09, Feb. 1994)