

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

- 8-101. Definition of "alcoholic beverages."  
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8-105. Concurrent sales of liquor by the drink and beer.  
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8-101. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less.

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Cowan, Tennessee. It is the intent of the mayor and council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Cowan, Tennessee, the same as if said code sections were copied herein verbatim.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

Municipal code reference

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

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied an annual privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, § 301, for the City of Cowan General Fund to be paid as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Cowan on alcoholic beverages for consumption on the premises where sold.

8-104. Privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Cowan shall remit to the city recorder the appropriate tax described in § 8-103. Such payment shall be remitted by January 31<sup>st</sup>, each successive year. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Cowan, pursuant to Tennessee Code Annotated, title 57, chapter 4, may qualify to receive a beer permit from the city. Approval of such a permit shall not be automatic.<sup>1</sup>

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission.

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<sup>1</sup>State ex rel. Amvets Post 27 v. Beer Board of the City of Jellico, 717 S.W.2d 878 (Tenn. 1986).

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
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- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
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- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.
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8-201. Beer board established. The city council is hereby designated as the beer board for the City of Cowan and is authorized to regulate the sale of beer. (Ord. #03-03-01, May 2003)

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.

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

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<sup>1</sup>Municipal code references

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

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).

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.

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.

8-205. Powers and duties of the beer board<sup>1</sup>. 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.

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.

8-207. Permit required for engaging in beer business<sup>2</sup>. 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 and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Cowan. 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.

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-5-106.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 57-5-103.

8-208. Privilege tax.<sup>1</sup> 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 Cowan, 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.

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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. 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.

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 schools, residences, 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 three hundred (300) feet of any school, residence, church or other such place of public gathering. The distances shall be measured in a straight line<sup>2</sup> 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.

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-104(b).

<sup>2</sup>State law reference

See Watkins v. Naifeh, 635 S.W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

convicted for the possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

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 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) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer.

(3) Hours of sale of beer shall be in compliance with the Tennessee Alcoholic Beverage Commission.

(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) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(9) Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-213. Revocation of beer permits.<sup>1</sup> 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 his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-108(a)(1).

8-214. Civil penalty in lieu of suspension.<sup>1</sup> 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.

Payment of the civil penalty in lieu of 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.

8-215. 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 shall be allowed to continue shall constitute a separate offense.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-108(a)(2).