

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 which contain more than five percent (5%) of alcohol by weight. (1988 Code, sec. 2-101)

¹Municipal code references

Driving under the influence: section 15-104.

Public drunkenness: title 11, chapter 2.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 6.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
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8-201. Beer board established. There has been heretofore created and is hereby continued in full force and effect a beer board to be composed of all the members of the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (Ord. No. 74 and 75, as replaced by Ord. No. 81-1, sec. 1; 1988 Code, sec. 2-201)

8-202. Meetings of the beer board. The beer board shall meet as business requires. All meetings of the beer board shall be in the city hall and shall be open to the public. Any board member may call a meeting providing the member calling a meeting provides reasonable notification to the other members and the public. Public notification in either the Crossville Chronicle or Cumberland County Times newspapers at least one time prior to a called

¹Municipal code references

Public drunkenness: title 11, chapter 2.

Tax provisions: title 6.

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).

meeting is considered adequate notification, except that in meetings concerning the issuance or revocation of permits to sell beer, the public notice shall be published not less than ten (10) days prior to such meetings. Such meetings shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a permit. The beer board may adjourn a meeting at any time to another time and place. (Ord. No. 81-1, sec. 2; 1988 Code, sec. 2-202)

8-203. Record of beer board proceedings to be kept. The city 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 members present and absent; and names of the members introducing and seconding motions and resolutions, etc. before the board; a copy of each motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. No. 81-1, sec. 3; 1988 Code, sec. 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. (Ord. No. 81-1, sec. 4; 1988 Code, sec. 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 with this city, in accordance with the provisions of this chapter. (Ord. No. 81-1, sec. 5; 1988 Code, sec. 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. (Ord. No. 81-1, sec. 6; 1988 Code, sec. 2-206)

8-207. Permit required for engaging in beer business; privilege tax; civil penalty in lieu of suspension. (1) 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 T.C.A. 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 Crab Orchard. 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.

(2) 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). 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 Crab Orchard, 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.

(3) 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 \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 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. No. 81-1, sec. 7; 1988 Code, sec. 2-207; as replaced by Ord. #093-2, Nov. 1993)

8-208. 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. 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. (Ord. No. 81-1, sec. 8; 1988 Code, sec. 2-208)

8-209. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted by the beer board to any person not a citizen of the United States nor to any syndicate or association unless all of the members thereof are citizens of the United States. (Ord. No. 81-1, sec. 9; 1988 Code, sec. 2-209)

8-210. Interference with public health, safety and morals prohibited. No permit authorizing the sale of beer will be issued when such business is:

(1) located within two hundred feet (200') (straight line distance) of any school, church, or other such place of public gathering;

(2) for on premises consumption (over the bar sales) and is located within one thousand feet (1000') (straight line distance) of any school, church, or other such place of public gathering;

(3) located in a place relatively isolated from other businesses and which would require potential customers, as their only public access to the business, to drive their vehicles directly by or through the property of places of public gathering such as schools or churches;

(4) located within two hundred feet (200') (straight line distance) of occupied residences not owned by the applicant unless written concurrence of the owner is presented to the board.

The distance measuring points shall be from property line to property line.¹ (Ord. No. 81-1, sec. 10, modified; 1988 Code, sec. 2-210)

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. (Ord. No. 81-1, sec. 11; 1988 Code, sec. 2-211)

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) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer, except supermarkets where authorized on the beer permit.

(3) Prohibit the make or allow any sale of beer, on or off premises, between the hours of 3:00 A.M. and 6:00 A.M. during any night of the week, and from 3:00 A.M. to 12 Noon Sunday.

(4) Deliver beer to any purchaser or purchasers except during those hours set out in paragraph (3) of this section.

(5) Sell intoxicating liquors as defined in this title, chapter 1.

(6) Allow the possession of beer by any person within the permittee's place of business at a time when beer may not be legally sold; such possession shall constitute evidence of an illegal sale.

(7) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

¹State law reference

The straight line method of measurement is required under Watkins v. Naifeh, 635 S.W.2d 104 (1982).

(8) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.

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

(10) Allow drunk or disreputable persons to loiter about his premises.

(11) Allow persons to remain in the permittee's place of business longer than thirty (30) minutes past the time the permittee closes his place of business to the public.

(12) Allow gambling on his premises.

(13) Consume or allow the consumption by any of his employees of beer on his premises at any time while his place of business is open to the public.

(14) Allow pool or billiard playing in the same room where beer is sold and or consumed.

(15) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. No. 81-1, modified; 1988 Code, § 2-212, as amended by Ord. #10-99, Nov. 1999)

8-213. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this ordinance, or to suspend same for a period not exceeding six months, 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 or suspended 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 Cumberland County Sheriff or by any member of the beer board. (Ord. No. 81-1, sec. 14; 1988 Code, sec. 2-213)

8-214. Responsibilities of permittee. Each permittee must furnish the Crab Orchard City Hall with a list of the names, date of birth, and social security number of all persons to be employed in the place where beer is to be sold and must inform the Crab Orchard City Hall within 72 hours of employment as to the names, date of birth, and social security number of any persons employed after such list has been originally submitted, and a current list shall be maintained by the Crab Orchard City Hall as part of the public records at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Permittee shall be deemed responsible for the actions of all employees in regard to state and local legislation on the sale of beer. Prior to January 1 of each year, it is the responsibility of the permittee to pick up copies of any new legislation regulating the sale of beer. It is also the responsibility of the permittee to immediately notify the city clerk of any convictions or pleas for unlawful activity as defined in § 8-212 of the Crab Orchard Municipal Code. (as added by Ord. #8-214, April 2001)

8-215. Employees required to have identification and proof of employment. Every employee employed by an establishment licensed under this chapter shall be required to have on his or her person at all times while upon the premises bona fide identification with his or her name, birthdate, age, and description, and written proof of present employment furnished by the employer. Upon demand by any law enforcement officer, any and every employee shall be required to immediately produce such identification and proof of employment at any time the employee in question is on or about the premises. (as added by Ord. #8-215, April 2001)