

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

1. INTOXICATING LIQUORS.
2. BEER.
3. REGULATIONS AND LOCATIONS OF DISTILLERIES, BREWERIES AND WINERIES.

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

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except when he affirmatively shows that he has express authority under the state law<sup>2</sup>, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Dandridge. "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. (1995 Code, § 8-101)

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<sup>1</sup>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.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Contents of application.
- 8-211. Issuance of permit.
- 8-212. Notice.
- 8-213. Prohibited conduct or activities by beer permit holders.
- 8-214. Revocation, suspension, civil penalty.
- 8-215. Fees for application and permit.
- 8-216. Legal hours of sale.

**8-201. Beer board established.** There is hereby established a beer board in and for the Town of Dandridge, Tennessee to be composed of seven (7) members appointed by the board of mayor and aldermen. All members of the beer board shall be citizens and residents of the town. They shall be appointed for two (2) year terms, which terms shall be in conjunction with the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. (Ord. #14/15-07, April 2015)

**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 town's municipal public works building or at any other location designated by the beer board at such times as it shall prescribe. When there is business to come before

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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 *Watkins v. Naifeh*, 635 S.W.2d 104 (Tenn. 1982).

the beer board, a special meeting may be called by the chairman provided he gives a five (5) day notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #14/15-07, April 2015, modified)

**8-203. Record of beer board proceedings to be kept.** The recorder shall be the secretary ex officio without the power to vote and shall make a record on 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. (Ord. #14/15-07, April 2015)

**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. (Ord. #14/15-07, April 2015)

**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 the Town of Dandridge in accordance with the provisions of this chapter. (Ord. #14/15-07, April 2015)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

**8-207. 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. 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 and the town's policies and procedures. No beer permit under the terms of this chapter shall be transferred between persons. A beer permit may be transferred by the holder from one location to another where the holder of a permit changes his place of distribution as a result of an eminent domain proceeding, loss of the place of distribution by destruction caused by acts of God, fire, acts of the permit holder's landlord, construction of a new place of distribution with abandonment of the prior place of distribution, or any other transfer of location by the permittee approved by the beer board; however, the transfer of a permit shall not be authorized where the permit holder sells or transfers by any means the business inventory, equipment and fixtures to another party.

(1) The beer board is authorized to issue special occasion permits for a location within the historic district of the town for special events which shall be limited to two (2) events lasting up to three (3) consecutive days per organization during any twelve (12) month period.

(2) The application fee for a special occasion license shall be the same as that for any other beer permit in the town and the application shall state the applicant's organization including documents showing evidence of the type of organization and the state of the location or the premises upon which the alcoholic beverages shall be served and the purpose for the request of the permit.

(3) No organization possessing a special occasion permit shall purchase for sale or distribution any beer from any source other than a source authorized pursuant to state law.

(4) The beer board is further empowered in its discretion to issue a special occasion permit establishing the times of sale for the location of the special event and said time shall not exceed that mandated by state law.

(5) The beer board is empowered to permit any organization holding a valid special occasion permit to sell beer within an outdoor serving area under the terms, conditions, rules and regulations as the beer board shall establish, which are not inconsistent with state law regarding the sale of beer. Any organization desiring to utilize an outdoor serving area under this subsection shall complete and submit an application to the town on forms provided by the business office of the town and such application shall include, but not be limited to the following information:

(a) The site plan for the outdoor seating area showing where any beer is to be sold and consumed, the specific location of any furniture and equipment and how the area of public right-of-way is to be separated.

(b) The site plan shall also include the location of any barriers to prevent access to the serving area by the general public unless the same is identified by an admission wrist band and said sight plan shall designate the entry and admission area.

(c) The site plan shall show the height and material used in the fencing to separate the seating from the public and seating areas may be located on property owned by the town in the sole discretion of the beer board.

No special event permit holder shall be allowed to sell more than four (4) twelve (12) ounce beers to any one (1) person during any special event day.

(6) The applicant organization shall establish how in said application the sale of alcohol will be securely made to persons of sufficient age to comply with state law as well as the policy for serving beer in the outdoor area along with the plan for charging for said beer sales.

(7) The applicant shall further accompany its site plan for outdoor seating with all safety measures taken with respect to any outdoor serving area as well as any insurance information pertaining to the organization's sale of

beer pursuant to a special occasion permit. (Ord. #14/15-07, April 2015, as amended by Ord. #16/17-12, June 2017)

**8-208. 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, to the Town of Dandridge, 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. (Ord. #14/15-07, April 2015)

**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 by the beer board so as to authorize sales for off-premises consumption or on-premises consumption. An on-premise consumption permit shall be issued to the permittee whose business is

- (1) Primarily a restaurant or eating place,
- (2) Be able to seat a minimum of forty (40) people, including children, in booths and at tables, in addition to any other seating it may have,
- (3) Have at least seventy-five percent (75%) of all seating in the interior of the building under a permanent roof, except the same shall not apply to a marina located within a premier tourist resort within the corporate limits of the town, and
- (4) The monthly beer sales shall not exceed fifty percent (50%) of the gross sales.

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 or enacted by ordinances. (Ord. #14/15-07, April 2015)

**8-210. Contents of application.** Before any person, firm, corporation, joint-stock company, syndicate, or association shall be authorized to sell, store, and/or manufacture such beer and/or beverages as prescribed herein, he shall apply to the beer board and shall establish:

- (1) That the applicant is a citizen of the United States, or is a legal resident of the United States, or if a syndicate or association, that all of the members are citizens of the United States, or are legal residents of the United States, and shall give the name, age, and address of the applicant and all of the

persons having an interest in the business, and shall give an apt description which definitely locates the proposed place of business.

(2) That no persons will be employed in the storage, sale, or manufacture of any such beverages except citizens of the United States, or a legal resident of the United States.

(3) That no such beverages will be sold in a congested area; within three hundred feet (300') of a school, church, or other place of public gathering in all zones of the town except in the Historic District of the B-1 Zone and in the Historic District of the B-1 Zone within three hundred feet (300') of a school or church; no closer than three hundred feet (300') feet to a residence except in the B-3 Zone where a business also holds a license to sell mixed drinks issued by the Alcohol Beverage Commission (ABC) of the State of Tennessee and in said circumstance the distance regulations of the ABC regarding residences if any, and no distance requirement from a residence shall exist in the Historic District of the B-1 Zone shall apply to the sale of beer; or where such sale will interfere with the public health, safety and morals in the discretion of the beer board.

(4) That no sale shall be made to persons under twenty-one (21) years of age.

(5) That neither the applicant nor any persons employed by him in such distribution or sale shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years.

(6) Whether the application is for off-premises consumption or for on-premises consumption.

The application shall distinctly state whether the person so aptly will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, syndicate, association, or joint-stock company, and any person making false statement in said application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years. (Ord. #14/15-07, April 2015)

**8-211. Issuance of permit.** Any applicant seeking a permit under this chapter and who complies with the conditions and provisions hereof shall have issued to them the necessary permit and in the event said permit is refused, the applicant shall be entitled to a hearing on his application for the issuance of a permit. The refusal to grant a permit may be reviewed as provided by law. (Ord. #14/15-07, April 2015)

**8-212. Notice.** Before the beer board shall issue a permit under this chapter, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such permit and the date and time of its meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to

such meeting. Such meeting shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a permit. (Ord. #14/15-07, April 2015)

**8-213. Prohibited conduct or activities by beer permit holders.** The following conduct or activities by beer permit holders shall be prohibited:

(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. This provision shall not apply to minors storing or stocking shelves in grocery stores selling beer for off-premises consumption only.

(3) Make or allow any sale of beer outside the hours set forth in § 8-216 herein.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

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

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

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

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

(9) Fail to commence the retail sale of beer within ninety (90) days of being issued a permit; however, if the beer permit is applied for and granted prior to the holder commencing new construction of the structure where the beer is to be sold or stored, the beer permit holder shall have one (1) year to commence the sale of beer. The one (1) year limit shall not apply to a beer permit holder who is adding on to an existing structure. If the permit holder incurs unforeseen circumstances which delay his sale of retail beer, he may request an extension of the one (1) year time limit from the board.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women for an on-premises consumption permit.

(11) A holder of an on-premises consumption permit which shall have beer sales exceed fifty percent (50%) of the businesses gross sales for more than two (2) consecutive months shall have said permit revoked.

(12) Sell or offer for sale any controlled substance as defined by *Tennessee Code Annotated* or any controlled substance analogue as defined by *Tennessee Code Annotated* or further defined herein to mean a capsule, pill, powder, product or other substance, however constituted:

(a) The chemical structure of which is a derivative of, or substantially similar to, the chemical structure of a controlled substance; or

(b) Has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance.

Any beer permit holder who violates any one (1) or more of the above provisions shall be subjected to revocation of their license or any other penalty set forth in § 8-214(2). (Ord. #14/15-07, April 2015, modified)

**8-214. Revocation, suspension, civil penalty.** (1) 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 application or of violating any of the provisions hereof. However, no beer permit shall be revoked until a public hearing is held by the board after ten (10) days notice to all known parties of interest. Revocation proceedings may be initiated by the mayor or the police chief.

(2) Pursuant to *Tennessee Code Annotated*, § 57-5-608 the beer board shall not revoke or suspend a permit because of the sale of beer to a minor if, at the time of the sale the permit holder was a responsible vendor, and the clerk who made the sale was certified under the responsible vendor program. If the permit holder certification has been revoked, the permit holder shall be punished by the beer board as if the vendor were not certified as a responsible vendor.

(3) In lieu of any suspensions that might have been imposed but for the restrictions set forth in (2) above; the beer board may impose a civil penalty not to exceed one thousand dollars (\$1,000.00). If the beer board determines that a clerk of a beer permit holder certified under the responsible vendor program sold beer to a minor, the beer board shall report the name of the clerk to the Alcohol Beverage Commission within fifteen (15) days after such determination by the board.

(4) In addition to the authority set forth in subsection (2) and (3) hereinabove, 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 one thousand dollars (\$1,000.00) provided however that the amount of the civil penalty may be increased to an amount not to exceed two thousand five hundred dollars (\$2,500.00) in the case of a sale to a minor by a permit holder that is not a responsible vendor. 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.

(5) A beer permit holder who incurs a violation of any provision of § 8-213 herein, may have that violation removed from its record for the purpose of determining the length of time of a suspension or a revocation, if said holder incurs no additional violation of any provision of § 8-213 within a twenty-four (24) month period.

(6) In addition to the aforementioned penalty set forth herein and in other provisions herein, any individual(s) who actually consummate(s) the sale of beer to a minor may, in addition to any fine, costs or diversion, have a community service sentence imposed of not more than forty (40) hours. (Ord. #14/15-07, April 2015)

**8-215. Fees for application and permit.** Any applicant seeking a permit under this chapter shall pay the recorder a two hundred fifty dollar (\$250.00) non-refundable application fee. There is also imposed a one hundred dollar (\$100.00) per year privilege tax on the business of selling beer. Revenue from the tax may be used for any municipal purpose. The tax is due on January 1 of each year. (Ord. #14/15-07, April 2015, modified)

**8-216. Legal hours of sale.** The legal hours of sale for all classes of permit holders shall be the same as the legal hours of sale of beer authorized by the Tennessee Alcoholic Beverage Commission which are as follows:

Monday through Saturday	8:00 A.M. to 3:00 A.M. into the next morning
Sunday	10:00 A.M. to 3:00 A.M. into the next morning

(Ord. #14/15-07, April 2015)

## CHAPTER 3

### REGULATIONS AND LOCATIONS OF DISTILLERIES, BREWERIES AND WINERIES

#### SECTION

8-301. Performance standards.

8-302. Definitions.

8-303. Review process.

**8-301. Performance standards.** There is hereby established performance standards for breweries, micro-breweries, distilleries, wineries, and micro-wineries that are newly constructed as follows:

(1) There shall be compliance with all applicable requirements of the Town of Dandridge Municipal Code and building codes.

(2) There shall be confirmation of approval by all applicable state and federal agencies authorized to regulate wineries, breweries and distilleries.

(3) Only products manufactured on-premise at any of the manufacturing facilities enumerated herein shall be consumed on-premise as permitted by applicable state law.

(4) Any such entity enumerated herein shall obtain approval by the Town of Dandridge water and sewer authorities for the operation of such business consistent with the capacity and regulations prevailing for said water and sewer service.

(5) Any site for a facility enumerated herein shall be at least three hundred feet (300') herein from a church or school measured from building to building.

(6) There shall be a submittal and approval in accordance with § 14-313 of the Dandridge zoning and building code applicable to site plan review.

(7) There shall exist off street parking provided at one (1) space for each two-hundred fifty (250) square feet of floor space and one (1) space per employee of any establishment enumerated herein.

(8) There shall be the required for approval and issuance of a special use permit specifying the conditions of approval for any conditions opposed by the board of zoning appeals and specified on the special use permit.

(9) Restaurants shall be allowed as an accessory use not to exceed thirty percent (30%) of gross floor area should any such establishment permitted by state law elect to operate a restaurant facility. (Ord. #13/14-18, Jan. 2014)

**8-302. Definitions.** (1) "Brewery." Facility that primarily manufactures and sells wholesale high alcohol content ales, beer or malt beverages in quantities of ten thousand (10,000) barrels or more per year with each barrel

holding thirty-one (31) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

(2) "Brew pub." A restaurant as the principal use that includes a micro-brewery integrated into the restaurant operation as an accessory use. Such facility devotes at least seventy percent (70%) of the gross floor area for the preparation, dining and sale of food. The manufacture of ales, beer or malt beverages shall not exceed thirty percent (30%) or five thousand (5,000) square feet in area whichever is greatest.

(3) "Distillery." An establishment for the manufacture of intoxicating liquor that includes, but is not limited to whiskey, brandy, "moonshine," and other alcoholic spirits that contain high alcohol content that produces more than five thousand (5,000) barrels per year with each barrel holding fifty-three (53) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

(4) "Micro-brewery." Facility that primarily manufactures high alcohol content ale, beer or malt liquor in quantities of less than ten thousand (10,000) barrels per year with each barrel holding thirty-one (31) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

(5) "Micro-distillery." An establishment for the manufacture of intoxicating liquor that includes, but is not limited to whiskey, brandy, "moonshine," and other alcoholic spirits that contain high alcohol content that produces more than five thousand (5,000) barrels per year with each barrel holding fifty-three (53) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

(6) "Micro winery." An agricultural processing facility used for commercial purposes of processing fruit or fruit juice that may include all or a majority of processes such as crushing, fermenting, blending, aging, storing, bottling, and selling of wine that may also include a lab, retail sales and a tasting room on the facilities. Winery producing up to two thousand (2,000) cases per year with a maximum site area of one (1) acre. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms.

(7) "Winery." An agricultural processing facility used for commercial purposes of processing fruit or fruit juice that may include all or a majority of processes such as crushing, fermenting, blending, aging, storing, bottling, and selling of wine that may also include a lab, retail sales and a tasting room on the facilities that produces over two thousand (2,000) cases per year with each case containing two thousand three hundred seventy-eight (2,378) gallons. This operation may also include limited retail sales of the product manufactured on-site and tasting rooms. (Ord. #13/14-18, Jan. 2014)

**8-303. Review process.** (1) There is hereby required a new construction review process which shall include the following:

(a) Site plan approval from planning commission for permitted use-by-right.

(b) (i) Board of zoning appeals for special exception,

(ii) Site plan approval from planning commission.

(2) Existing building review process is as follows: As a permitted use-by-right an in house administrative review by staff and a local representative of the town is conducted to confirm that compliance with off street parking and other zoning requirements have been met.

(3) Wineries and micro-wineries shall be permitted in the following locations: Permitted as use-by-right in all manufacturing districts, B-3 and B-2 districts.

(4) Micro-winery shall be permitted as follows: Permitted as use-by-right in all manufacturing districts, B-3 and B-2 districts and special exception (conditional use) in B-1 and B-4 districts.

(5) Distillery and micro-distillery locations shall be permitted as follows: Permitted as use-by-right in all manufacturing districts, B-3 and B-2 districts.

(6) Micro-distillery shall be permitted as follows: Permitted as use-by-right in all manufacturing districts, B-3 and B-2 districts and special exception (conditional use) in B-1 and B-4 districts.

(7) Brewery and micro-brewery shall be permitted as follows: Permitted as use-by-right in all manufacturing districts, B-3 and B-2 districts.

(8) Micro-brewery and brew pub shall be permitted as follows: Permitted as use-by-right in all manufacturing districts, B-3 and B-2 districts and special exception (conditional use) in B-1 and B-4 districts. (Ord. #13/14-18, Jan. 2014)