

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except when he is lawfully acting pursuant to the authority of an applicable state law², it shall be unlawful for any person acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "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. (1970 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

- 8-201. Transportation, storage, etc., subject to regulation and beer defined.
- 8-202. Beer board established.
- 8-203. Meetings of the beer board.
- 8-204. Record of beer board proceedings to be kept.
- 8-205. Requirements for beer board quorum and action.
- 8-206. Powers and duties of the beer board.
- 8-207. Permit application required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Contents of application.
- 8-210. New permit required when location is moved.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-214. Procedure for granting licenses.
- 8-215. Two (2) types of retail beer permits.
- 8-216. Limitations of number of beer permits.
- 8-217. Civil penalty in lieu of suspension.
- 8-218. Loss of clerk's certification for sale to minor.
- 8-219. Violations.

8-201. Transportation, storage, etc., subject to regulation and beer defined. Transportation, storage, distribution, possession, and/or manufacture of beer and/or ale of any alcoholic content of not more than five percent (5%) by weight within the corporate limits of Decatur, Tennessee, shall be subject to the regulations hereinafter set out and provided. 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. (1970 Code, § 2-201)

¹Municipal code reference

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

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).

8-202. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1970 Code, § 2-202)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings before each regular meeting of the board of mayor and aldermen at the town hall whenever there is business to come before the beer board. An adjourned or special meeting of the beer board may be called by its chairman provided he gives a reasonable notice thereof to each board member and there is reasonable and just cause for such an additional session. (1970 Code, § 2-203, modified)

8-204. Record of beer board proceedings to be kept. The city recorder shall make a separate 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. (1970 Code, § 2-204)

8-205. 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. (1970 Code, § 2-205)

8-206. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing, distributing, and manufacturing of beer within the Town of Decatur in accordance with the provisions of this chapter. (1970 Code, § 2-206)

8-207. Permit application 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 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 Town of Decatur. 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.

8-208. Privilege tax.¹ 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 Town of Decatur, 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. Contents of application.² The application shall state:

- (1) The name and residence address of the applicant and how long the applicant has resided there.
- (2) The particular place for which a license is desired, designating the same by street and number, if practicable, and if not, by such other apt description as definitely locates it.
- (3) The kind of license desired.
- (4) The name of the owner of the premises upon which the business licensed is to be carried on. (1970 Code, § 2-209, modified)

8-210. New permit required when location is moved. (1) When any person shall move the location of the place of business where such beverages are sold, then in all cases he shall be required to obtain from the town a new permit in the manner herein provided by application to the town therefor.

- (2) Permits and licenses shall not be transferable. (1970 Code, § 2-210, modified)

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, 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 or beer, or the sale of beer within three hundred feet (300') of any school, church, or other place of public gathering. The distance shall be measured in a straight line from the nearest point on the building from which the beer will be manufactured, stored, or sold to the nearest point on the building of the school, church, or other place of public gathering. No

¹State law reference

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

²Municipal code reference

Prohibited conduct or activities by beer permit holders, etc.: § 8-213.

permit shall be suspended, revoked, or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed, or manufactured at that location during any continuous six (6) month period after January 1, 1993. (as replaced by Ord. #151, Sept. 2006, and amended by Ord. #163, April 2008)

8-212. 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 beer or other alcoholic beverage, 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.

8-213. 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 18 years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week; at any time on Sunday; or on election days while the polls are lawfully open.

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

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women for establishments with on-premises permits.

8-214. Procedure for granting licenses. When an application is made to the beer board for a new license, the following procedure will apply:

(1) Application shall be received by the beer board at least fifteen (15) days prior to issuing a license.

(2) No application for a beer license will be approved without a hearing at the town hall which will be open to the public. The name of the applicant, name and address of his place of business, and the date of hearing will be announced.

(3) Permits shall be approved or disapproved by the town in a regular or called meeting and, if approved, a license shall be issued by the recorder of the Town of Decatur upon payment of the license fee provided by law. (1970 Code, § 2-213, modified)

8-215. Two (2) types of retail beer permits. Permits for the retail sale of beer issued by the town shall be of two types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for sale of beer to be consumed off the premises. (1970 Code, § 2-216)

8-216. Limitations of number of beer permits. There are no limits to the number of beer permits which may be issued by the beer board within the corporate limits of the Town of Decatur at any given time for either on-premises or off-premises beer permits. (1970 Code, § 2-217, as replaced by Ord. #165, July 2008)

8-217. 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

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 revocation or 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. (as replaced by Ord. #165, July 2008)

8-218. Loss of clerk's certification for sale to minor. 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. #165, July 2008)

8-219. Violations. Except as provided in § 8-218, 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.