

TITLE 8**ALCOHOLIC BEVERAGES**¹**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 applicable state laws², 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 town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which shall be defined pursuant to Tennessee Code Annotated, § 57-5-101. (1974 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

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8-201. Beer board established. There is hereby established a beer board to be composed of the mayor and the five (5) members of the Board of Mayor and Aldermen of the Town of Lynnville. The mayor shall serve as chairman. Members of the beer board shall serve without compensation and the terms shall be concurrent with their terms as alderman and mayor. (Ord. #6-3-03, June 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 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. (Ord. #6-3-03, June 2003)

8-203. Record of beer board proceedings to be kept. The mayor shall make a record of the proceedings of all meetings of the beer board. The

¹State 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. (Ord. #6-3-03, June 2003)

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 members present but not voting shall be deemed to have cast a "nay" vote. (Ord. #6-3-03, June 2003)

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 this municipality in accordance with the provisions of this chapter. (Ord. #6-3-03, June 2003)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors shall be defined pursuant to Tennessee Code Annotated, § 57-5-101. (Ord. #6-3-03, June 2003)

8-207. Permit required for engaging in beer business. (1) 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 fifty dollars (\$250.00). Said fee shall be in the form of a cashiers check payable to the Town of Lynnville Tennessee. 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.

(2) Each applicant for a beer permit must establish that he has been a resident of Giles County during the twelve (12) consecutive months immediately preceding the date of his application.

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. #6-3-03, June 2003)

8-209. Restricted area. In no event shall a permit be issued authorizing the sale, storage, or manufacturing of beer outside the downtown business district. The downtown business district is defined as:

- (1) Mill Street, from the intersection of Main Street to Industrial Park Road;
- (2) Main Street, from the intersection of Walnut Street to the eastern city limits;
- (3) Church Street, from the intersection of Main Street to McCall Street; and
- (4) Vine Street, from the intersection of Main Street to Church Street.

8-210. Temporary permits. Temporary beer permits not to exceed a duration of ten (10) days, and not to exceed a maximum of two (2) times in a calendar year, may be issued at the request of an applicant upon the same conditions governing permanent permits. Such a temporary permit shall not allow the sale, storage or manufacture of beer on publicly owned property, except that a temporary permit authorizing the sale of beer on public property may be issued to a bona fide charitable or nonprofit or political organization as defined in *Tennessee Code Annotated*, § 57-4-102, subject to the approval of the board of mayor and aldermen.

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person under the age of eighteen (18) years in the sale, storage, distribution or manufacture of beer.
- (2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any day of the week except on Sundays when beer can only be sold between the hours of 1:00 P.M. and 10:00 P.M.
- (3) Allow any loud, unusual or obnoxious noises to emanate from his premises.
- (4) Make or allow any sale of beer to anyone under twenty-one (21) years of age.
- (5) Allow anyone under twenty-one (21) years of age to loiter in or about his place of business where beer is being sold.
- (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 more than defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

(9) Allow gambling except as may be lawful and permitted by the statutes of the State of Tennessee. (Ord. #6-3-03, June 2003, as amended by Ord. #6-3-03A, June 2006, modified)

8-212. Privilege tax. 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 Lynnville. 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.

8-213. Revocation or suspension of beer permits. 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 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 or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. 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 see 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 town may impose.

8-215. 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 reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Violations and penalty. 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.