

TITLE 2

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

2-101. Prohibited generally.

2-101. 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 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.

¹For provisions prohibiting minors in beer places and prohibiting drinking beer, etc., on the streets, etc., see title 10 in this code.

For general provisions in the state law, see Tennessee Code Annotated, title 57.

²See particularly Tennessee Code Annotated, title 39, chapter 25.

CHAPTER 2

BEER¹

SECTION

- 2-201. Beer board established.
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- 2-212. Prohibited conduct or activities by beer permit holders.
- 2-213. Suspension and revocation of beer permits.
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2-201. Beer board established. There is hereby established a beer board to be composed of the members of 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. (as replaced by ord. #19, Sept. 1993)

2-202. 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 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. (as replaced by ord. #19, Sept. 1993)

¹For a leading case in Tennessee on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Grubb et al. v. Mayor and Aldermen of Morristown et al., 185 Tenn. 114, 203 S.W.2d 593 (1947).

For general business regulations, see title 5 in this code; for applicable tax provisions, see title 6; for miscellaneous provisions prohibiting minors in beer places and prohibiting drinking beer on streets, etc., see title 10.

2-203. 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 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. (as replaced by ord. #19, Sept. 1993)

2-204. 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. (as replaced by ord. #19, Sept. 1993)

2-205. 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 city in accordance with the provisions of this chapter. (as replaced by ord. #19, Sept. 1993)

2-206. "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. (as replaced by ord. #19, Sept. 1993)

2-207. 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. 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), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00).¹ Said fee shall be in the form of a cashier's check payable to the Town of Maury City. 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. (as replaced by ord. #19, Sept. 1993)

2-208. Privilege tax. Effective January 1, 1994 there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a

¹See Tennessee Code Annotated, section 57-5-108(c).

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 Town of Maury City, 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. (as replaced by ord. #19, Sept. 1993)

2-209. 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. Permits may be issued by the board to retail stores for the sale of beer exclusively for carry-out, off premises consumption.

(1) 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. (as replaced by ord. #19, Sept. 1993)

2-210. 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 hospitals, 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 of beer, or the sale of beer, within two hundred and fifty (250) feet of any hospital, school, church, or other place of public gathering. The distance shall be measured in a straight line¹ from the nearest point upon the property line from which the beer will be sold, manufactured or stored to the nearest point on the property line of the hospital, school, church or other place of public gathering. (as replaced by ord. #19, Sept. 1993)

2-211. 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. (as replaced by ord. #19, Sept. 1993)

¹State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (1982) and other cases cited therein which establish the straight line method of measurement.

2-212. 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) Make or allow any sale of beer between the hours of 10:30 P.M. and 6:00 A.M. on Monday, Tuesday, Wednesday or Thursday and between 11:30 P.M. and 6:00 A.M. on Friday and Saturday; at any time on Sunday; or on election days before and while the polls are lawfully open.

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

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

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

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

(7) 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.

(8) Serve or sell or allow to be served or sold beer to any person in or on any motor vehicle or allow any person to consume beer while in a motor vehicle parked on his premises.

(9) Allow assaults, fighting, damaging of property and breaches of the peace occurring on or in the premises where is sold. (as replaced by ord. #19, Sept. 1993)

2-213. Revocation and 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. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (as replaced by ord. #19, Sept. 1993)

2-214. Civil penalty in lieu of suspension or revocation. Pursuant to T.C.A. 57-5-108(a)(2) the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. Such penalty may be up to one thousand five hundred dollars (\$1500) for each offense of making or allowing sales to minors and up to one thousand dollars (\$1000) for any other

violation. The permit holder will have seven days to pay aforementioned penalty before the suspension or revocation takes effect. Payment of the penalty does not effect the permit holders right to seek judicial review of the suspension or revocation pursuant to the general laws of the State of Tennessee. (as added by ord. #19, Sept. 1993)