

## TITLE 8

ALCOHOLIC BEVERAGES

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

- 8-101. Prohibited generally.  
8-102. Advertising alcoholic beverages.

8-101. Prohibited generally. Except as authorized by applicable laws<sup>1</sup> 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. (1973 Code, sec. 2-101)

8-102. Advertising alcoholic beverages. Any sign utilized by a retailer for the purpose of advertising alcoholic beverages and the name or nature of the business, shall be attached to the building wherein the retail sales are made. The sign shall be one contiguous sign and shall not be greater than four (4) feet in height or fifteen (15) feet in length inclusive, for the total advertising surface or surfaces of such sign, and if lighted, the illumination shall be of a continuous nature only.

The sign shall only contain the name of the business and the additional words liquor and/or wine as the retailer may desire. No brand of alcoholic beverage may be advertised on the exterior of the building. (Ord. # 1984-2, as modified)

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<sup>1</sup>State law reference

See Tennessee Code Annotated, title 39, chapter 6.

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
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- 8-220. Signs.

8-201. Beer board established. There is hereby established a beer board to be composed of the mayor and all members of the governing body. The mayor shall serve as chairman of the beer board and preside over all meetings. If the mayor is unable to attend a meeting then, a quorum being present, the members of the board shall appoint one of themselves to preside. All members of the beer board shall serve without additional compensation. (Ord. # 1987-6)

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 city 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. (Ord. # 1987-6)

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<sup>1</sup>For a leading case in Tennessee on a municipality's authority to regulate beer, see the 1947 Tennessee Supreme Court decision in Grubb et al. v. Mayor and Aldermen of Morristown et al., 185 Tenn. 114.

8-203. Record of beer board proceedings to be kept. The city clerk 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. (Ord. # 1987-6)

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. # 1987-6)

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. # 1987-6)

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. # 1987-6)

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 Tennessee Code Annotated § 57-5-101(b), and shall be accompanied by a non-refundable applicant 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 New Johnsonville. 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 New Johnsonville, 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. #1987-6, as replaced by Ord. #1993-4, § 1, Oct. 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 if the premises is not situated to meet the needs of public health, safety or traffic control. 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 to sell beer, and a violation thereof. (Ord. # 1987-6)

8-209. Prerequisites to issuance of permit. Any application for a permit to sell beer shall be in writing, executed under oath and filed with the beer board as a condition precedent to its issuance and shall contain the following:

(1) Name of applicant and location where the business is to be conducted.

(2) Name of the owner of the premises where the business is to be conducted.

(3) That the applicant has not been convicted of violating any law regulating or prohibiting the sale of intoxicating liquor or of any crime in which moral turpitude was involved within ten (10) years preceding the filing of such application.

(4) An application for the beer permit shall be filed by an individual who is the owner or proprietor and is the person charged with responsibility for the oversight, operation and control of the business and its employees. An individual may be licensed at more than one location, but each separate business location shall require a separate beer permit.

(5) All applicants issued a permit shall agree with the beer board that he will not:

(a) Permit loitering on the premises.

(b) Allow anyone under the age of eighteen (18) to sell beer.

(c) Violate any state law, city ordinance or the terms of his permit.

(d) Employ any person who has been convicted of violating any law or ordinance regulating or prohibiting the sale of intoxicating beverage, nor any person who has been convicted of any crime involving moral turpitude within ten (10) years preceding the filing of the application.

(e) Sell beer to any minor or to any intoxicated person.

(6) The applicant shall furnish the full name, address, date of birth and social security number of all owners, co-owners, employees, members of the family or anyone else involved in the dispensing or selling of beer at retail on the licensed premises.

(7) Before the city beer board may place the issuance of a beer license or permit upon its agenda at its regular city council meeting or such other time as it may establish for conducting the business of the city beer board or act upon the application for issuance of such permit, the applicant shall file a fully completed application with the city clerk for New Johnsonville, which city clerk shall cause to be published in the official city newspaper a notice of such application listing the name of the applicant, the address of the location for such license or 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 license or permit.

(8) Prior to consideration of an application for the sale of beer under this section, the city clerk shall collect an application fee of \$100.00 for use in offsetting the expenses of investigation of the applicant and the publication of notices required by this section. Regardless of whether an application is approved or denied no portion of such fee shall be returned to the applicant. (Ord. # 1987-6, as modified, as amended by Ord. 1997-08, Jan. 1997)

8-210. 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 schools, churches, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within one thousand (1,000) feet of any school, church, or other such place of public gathering. (Ord. # 1987-6, as amended by Ord. 1997-01, May 1997)

8-211. Applicants required to file bond. All applicants shall file a bond with the city clerk in the penal amount of twenty five hundred (\$2500.00) dollars payable to the State of Tennessee and signed by such sureties as are acceptable to the beer board. Such bond shall be conditioned that the principal will pay any fine assessed against him by a court of competent jurisdiction. (Ord. # 1987-6)

8-212. Hours of sale. It shall be lawful to sell beer for on-premises consumption within this municipality between the hours of 6:00 A.M. and 1:00 A.M. inclusive; except on election days before and while the polls are lawfully open and except on Sundays when on-premises consumption shall be allowed between the hours of 1:00 P.M. and 12:00 Midnight; packaged beer may be sold for off-premises consumption between the hours of 5:00 A.M. and 1:00 A.M. (Ord. # 1987-6)

8-213. Permits not transferable. No permit issued under the provisions of this chapter is transferable, either as to location or to successor by purchase or otherwise. (Ord. # 1987-6)

8-214. Business to be conducted on ground floor, generally. Beer shall not be sold for consumption on the premises other than on the ground floor of any building with chartered clubs being exceptions to this section. (Ord. # 1987-6)

8-215. Beer sold at retail to be removed from table, etc. After 1:00 A.M. no beer shall be sold. All beer sold at retail shall be removed from tables, bars or other portions of the licensed premises by 1:30 A.M. (Ord. # 1987-6)

8-216. Revocation of beer permits. (1) The beer board shall have the power to revoke 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 until a public hearing is held by the board after reasonable notice of not less than ten (10) days to all of the known parties in interest. Revocation proceedings may be initiated by the chief of police or any member of the beer board.

(2) A finding by a majority of the beer board that a permit holder has violated an ordinance or statute concerning an application for permit or the sale of beer at retail shall result in a minimum term for suspension of beer sales of three (3) days with such time period to begin ten (10) days from the finding made by the beer board. Subsequent violations occurring within a twelve (12) month period shall result in a minimum suspension of license of ten (10) days for a second offense and automatic revocation for the finding of a third violation committed within a twelve month period. Nothing herein however, shall operate to restrict the power of the beer board to revoke a beer permit for any violation of the statutes in this chapter or laws of the State of Tennessee. (Ord. # 1987-6)

8-217. Minors in beer places. No person of less than the legal age to drink beer shall loiter in or around, any place where beer is sold at retail for consumption on the premises. (Ord. # 1987-6, as modified)

8-218. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink, consume, or have any open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or public place unless such public place has a beer permit and license for on premises consumption. (Ord. # 1987-6)

8-219. Lighting. The owner or person in charge of the building or structure where beer is sold or consumed shall have lighting in said building sufficient to look from wall to wall in a straight line and perceive persons at the far wall. (Ord. # 1987-6, as modified)

8-220. Signs. It shall be unlawful for any owner or person in charge of the business where beer is sold or consumed to post any sign stating the words SUNDAY BEER SALES in any sequence. (Ord. # 1987-6, as modified)