

**TITLE 8**

**ALCOHOLIC BEVERAGES**<sup>1</sup>

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws<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 City of Red Boiling Springs. "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. (1980 Code, § 2-101)

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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.
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- 8-213. Prohibited conduct or activities by beer permit holders.
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**8-201. Beer board established.** There is hereby established a beer board to be composed of the mayor and city councilmen. The mayor shall be the chairman of the beer board. (1980 Code, § 2-201, as replaced by Ord. #00-3, April 2000)

**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. (as added by Ord. #00-3, April 2000)

**8-203. Record of beer board proceedings.** 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 members introducing and seconding motions and

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<sup>1</sup>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).

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 added by Ord. #00-3, April 2000)

**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 member present but not voting shall be deemed to have cast a "nay" vote. (as added by Ord. #00-3, April 2000)

**8-205. Powers and duties of the beer board.** The beer board shall have 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. (as added by Ord. #00-3, April 2000)

**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. (as added by Ord. #00-3, April 2000)

**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. The application shall be made on such form as the board shall prescribe and/or furnish; shall be pursuant to Tennessee Code Annotated § 57-5-101(b); and 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 City of Red Boiling Springs. Each applicant must be a person of good moral character and must certify that the applicant has read and is familiar with the provisions of this chapter, designated the "Code of the City of Red Boiling Springs for the Regulation of Beer Sales." (as added by Ord. #00-3, April 2000)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer a privilege tax of two hundred fifty dollars (\$250). 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 City of Red Boiling Springs, 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 tax payment date. (as added by Ord. #00-3, April 2000)

**8-209. Beer permit 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 shall be further restricted by the beer board so as to authorize sales only in a business which is a grocery store or a convenience type market. No permit shall allow on premise and/or off premise consumption. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into the permit of such holder by the beer board. (as added by Ord. #00-3, April 2000)

**8-210. Limitation on number of permits.** The number of licenses for the sale of beer shall be limited to seven (7). Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit shall be used only within the establishment or building purchased. (as added by Ord. #00-3, April 2000, and amended by Ord. #14-1, March 2014)

**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 of beer, or the sale of beer within two hundred (200) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line.<sup>1</sup> The measurement shall begin from the building in which the beer will be manufactured, stored or sold and shall run in a straight line therefrom to the nearest point of the building of the hospital, school, or church, or the nearest point of such other place of public gathering. (as added by Ord. #00-3, April 2000, and amended by Ord. #00-7, June 2000)

**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 intoxicating liquor, 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

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 635 S.W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

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. (as added by Ord. #00-3, April 2000)

**8-213. Prohibited conduct or activities by beer permit holders.**

It shall be unlawful for any 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) 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, and any time Sunday except between the hours of 1:00 P.M. to 6:00 P.M.

(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 the permit holder's 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 the permit holder's premises.

(8) Serve, sell, or allow the consumption on the permit holder's premises of any alcoholic beverage with an alcoholic content of more than five (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 where beer is consumed. (as added by Ord. #00-3, April 2000, and amended by Ord. #00-7, June 2000)

**8-214. Revocation of beer permits.** 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 to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (as added by Ord. #00-3, April 2000)

**8-215. 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.

Payment of the civil penalty in lieu of 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 added by Ord. #00-3, April 2000)