

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 acting pursuant to authority of an exemption provided in the state law², 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 Lake 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. (1968 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. Beer business lawful but subject to regulation.
- 8-202. Beer board created.
- 8-203. Permit required for engaging in beer business.
- 8-204. Classes of permits.
- 8-205. Application for permit; requirements as to applicants; regulations to be followed.
- 8-206. Revocation of permit; suspension of permit; hearing; action of beer board final.
- 8-207. Issuance of permits to hotels, clubs, etc.
- 8-208. License fee.
- 8-209. Display of permit.
- 8-210. Permits not transferable.
- 8-211. Sales to intoxicated persons prohibited; partitions, where required; proper sanitary facilities required.
- 8-212. Retail premises--to be on street level with glass front.
- 8-213. Retail premises--curtains, blinds, etc., prohibited.
- 8-214. Retail premises--all sales to be on ground floor--exceptions.
- 8-215. Wholesalers--one place of business--exceptions.
- 8-216. Wholesalers, etc.--deliveries to holders of retail beer permits.
- 8-217. Privilege tax.
- 8-218. Minors--fraudulent evidence of age, etc.--misdemeanor.
- 8-219. Hours of sale.
- 8-220. Sanitation for premises covered by on-premises permit.
- 8-221. Civil penalty in lieu of suspension.
- 8-222. Employees liable for violations.
- 8-223. Transfer, forfeiture, or abandonment of business.
- 8-224. Beer establishments selling on election day.

8-201. Beer business lawful but subject to regulation. It shall be lawful to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee, or any other beverages of like alcoholic content, within the corporate limits of the City of

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).

Lake City, Tennessee, subject to all the regulations, limitations, and restrictions hereinafter provided, and subject to the rules and regulations promulgated by authorized public officials or boards. (1968 Code, § 2-201)

8-202. Beer board created. There is hereby created a board of seven (7) members, consisting of and constituted by the members of the board of mayor and council of the City of Lake City, to serve as a beer board. The beer board shall meet and shall be considered as in session for the purposes set out in this chapter in the performance of its duties as a beer board at all regular, adjourned, and called meetings of the board of mayor and council and shall at said meetings consider any business properly before it as a beer board. (1968 Code, § 2-202)

8-203. Permit required for engaging in beer business. It is 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), 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 Lake City. 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. (Ord. #349, Feb. 1994)

8-204. Classes of permits. There shall be three classes of permits issued under this chapter.

(1) Class A. An off-premises only permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or his guests upon the premises of such seller. This class shall also include beer wholesalers. There shall be no more than twelve (12) Class A permits issued and in force at any one time.

(2) Class B. An on-premises only permit to any person or legal organization engaged in the sale of such beverages where they are consumed by the purchaser or his guests upon the premises of the seller, and where 51% or more of the total sales of the business consists of sales of such beverages. There shall be no more than three (3) Class B permits issued and in force at any one time.

(3) Class C. An on-premises only permit to any person or legal organization engaged in the sale of such beverages where they are consumed by the purchaser or his guests upon the premises of the seller, and where 51% or more of the total sales of such business consists of sales of food for consumption on the premises. There shall be no more than three (3) Class C permits issued and in force at any one time.

No permit shall be issued to sell any beverage coming with the provisions of this chapter:

- (a) In violation of any provisions of state law.
- (b) In violation of the zoning ordinances of the City of Lake City.
- (c) Where such sales will cause congestion of traffic, interference with schools, churches, or other places of public gathering, or will otherwise interfere with the public health or safety. The judgment of the beer board on such matters will be final except as the same is subject to review at law. (1968 Code, § 2-204, as amended by Ord. #389, June 2000)

8-205. Application for permit; requirements as to applicants; regulations to be followed. Before any permit is issued by the beer board, the applicant therefor shall file with the beer board a sworn petition in writing on forms prescribed by and furnished by the board, and shall establish the following:

- (1) That the applicant is a citizen of the United States, or if a syndicate or association, that all the members thereof are citizens of the United States.
- (2) The location of the premises at which the business shall be conducted.
- (3) The owner or owners of such premises.
- (4) That no person will be employed in the storage, sale, or manufacture of such beverages except those who are citizens of the United States and are eighteen (18) years of age or older.
- (5) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.
- (6) That the applicant has never had a permit revoked or suspended which had been issued by any municipality, county, or other issuing authority.
- (7) That no sale of such beverages will be made except in accordance with the permit granted.
- (8) That if the application is for a permit to sell, not for consumption on the premises, that no sale will be made for consumption on the premises, and that no consumption will be allowed on the premises thereof.
- (9) That no sale will be made to minors and that the applicant will not permit minors or disorderly persons to loiter in or around the place of business.
- (10) The beer board may require the applicant to secure a certificate or a statement from the health officer that the premises which the application covers meets the requirements of § 8-220.
- (11) No dancing shall be allowed on the premises.

(12) That applicant will not allow any liquor with alcoholic content greater than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee, to be consumed on his premises.

(13) That neither the applicant nor any person employed or to be employed by him in such distribution or sale of such beverage has ever been convicted of any violation of the laws against prohibition, sale, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(14) That the applicant will conduct the business in person, for himself, or if he is acting as agent, the applicant shall state the person, firm, corporation, syndicate, association, or joint stock companies for whom and only for whom the applicant intends to act. (1968 Code, § 2-205, modified)

8-206. Revocation of permit; suspension of permit; hearing; action of beer board final. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter, including the provisions of § 8-205.

The beer board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

Complaints filed against any permit holder for the purpose of suspending or revoking his permit shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violation and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. The notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the City of Lake City. The notice shall be served upon the permittee at least five (5) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location until the expiration of one (1) year from the date said revocation becomes final. (1968 Code, § 2-206)

8-207. Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer board to issue a permit for the sale of any beverage coming within the

provisions of this chapter to hotels, clubs, or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided by this chapter. (1968 Code, § 2-207)

8-208. License fee. Each applicant granted a permit to sell any beverage coming within the provisions of this chapter shall, before engaging in such sale, secure a license from the city recorder of the City of Lake City, Tennessee. (1968 Code, § 2-208)

8-209. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1968 Code, § 2-209)

8-210. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to the location or to a successor by purchase or otherwise of the business for which the permit was issued. In either case, a new permit is required in the manner provided herein. (1968 Code, § 2-210)

8-211. Sales to intoxicated persons prohibited; partitions, where required; proper sanitary facilities required. It shall be unlawful and it is declared to be a misdemeanor for any person, firm, corporation, or association engaged in the business regulated hereunder, to make, or to permit to be made, any sale or distribution of such beverage to persons intoxicated; to sell or distribute such beverage to persons who are feeble minded, insane, or otherwise mentally incapacitated; to fail to provide proper sanitary facilities where such beverage is permitted to be consumed on the premises; or to sell or distribute such beverage at any place where pool or billiards are played, unless the sale or distribution of such beverage is made in the front of such room or place where a partition wall separates the place from the pool or billiard parlor. (1968 Code, § 2-211)

8-212. Retail premises--to be on street level with glass front. No license to permit the retail sale or distribution of beverages coming within the provisions of this chapter shall be issued for the operation of any place except one on street level and with so much of the front enclosed in glass and of such design that the interior can be easily seen from the sidewalk or street in front of such place. (1968 Code, § 2-212)

8-213. Retail premises--curtains, blinds, etc., prohibited. All places where beverages regulated by this chapter are sold shall be well lighted inside and no curtains, drapes, shades, blinds, screens, or other thing shall be used in any place or on any window so as to hinder a clear and unobstructed view of the

whole interior of such place from any point on the sidewalk or street in front of such place. (1968 Code, § 2-213)

8-214. Retail premises--all sales to be on ground floor--exceptions.

In any building or on any premises where the retail sale of beverages coming within the provisions of this chapter is permitted, no alcoholic beverage shall be sold, served, or consumed in any basement room or room other than on the ground floor, excepting hotel bedrooms. (1968 Code, § 2-214)

8-215. Wholesalers--one place of business--exceptions.

No wholesaler of alcoholic beverages regulated herein shall maintain more than one (1) place of business. However, the beer board, in its discretion, may issue a special permit to any distributor to allow said distributor to store beer in a warehouse or building apart from the building from which the business is conducted. In addition, such distributors are authorized to store draft beer, for refrigeration purposes only, in one additional ice house or refrigeration plant under the following conditions:

(1) For the purpose of this chapter, any employee of such ice house or refrigeration plant who may be in any manner connected with the sale or distribution of beer stored therein shall be deemed to be an employee of the wholesaler or distributor when beer is so stored, and any violation of this chapter or any provisions of the beer law by such employees shall be deemed to be a violation by said wholesaler or distributor.

(2) Except sales from trucks from duly authorized salesmen, or as otherwise provided herein, no beer shall be transferred from, sold in, stored in, brought to rest in, sold from, possessed in, receipted for at, manufactured, wholesaled, or distributed from any other place, building, or location, except from said building, place, or location set out and called for in the wholesaler's, distributor's, or manufacturer's beer permit, and/or said ice house or refrigeration plant, and that no beer shall be transferred to a retailer or any other purchaser except from the location called for in said wholesaler's, distributor's, or manufacturer's beer permit, and/or said ice house or refrigeration plant, by any wholesaler, distributor, or manufacturer, their salesmen or authorized representatives. (1968 Code, § 2-215)

8-216. Wholesalers, etc.--deliveries to holders of retail beer permits. It shall be unlawful for any wholesaler, distributor, or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any persons other than the holders of valid retail beer permits, and it shall be the duty of such wholesalers, distributors, or manufacturers, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (1968 Code, § 2-216)

8-217. 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 Lake 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. (Ord. #349, Feb. 1994)

8-218. Minors--fraudulent evidence of age, etc.--misdemeanor.

(1) It shall be unlawful for any minor to purchase or attempt to purchase any beverage regulated hereunder, and it shall be unlawful for any minor to possess any such beverage upon the premises of an on-premises permittee.

(2) It shall be unlawful for any minor to present or offer to any permittee, his agent, or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase or otherwise procuring or attempting to procure such beverage.

(3) Any minor who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and if eighteen (18) years of age, or more, shall, upon conviction, be subject to a fine under the general penalty clause for this code; if seventeen (17) years of age, or less, he shall be taken before the juvenile judge for appropriate disposition. (1968 Code, § 2-218)

8-219. Hours of sale. It shall be a misdemeanor for any person or legal organization issued a Class A off-premises only permit to sell or distribute such beverages regulated hereunder within the corporate limits of the City of Lake City outside the hours of 6:00 A.M. to 1:00 A.M. Monday through Sunday, and between the hours of 12:00 Noon Sunday to 1:00 A.M. Monday. No sales shall be allowed between the hours of 1:00 A.M. Sunday to 12:00 Noon Sunday.

It shall be a misdemeanor for any person or legal organization issued a Class B or Class C on-premises only permit to sell, consume, or distribute such beverages regulated hereunder within the corporate limits of the City of Lake City outside the hours of 8:00 A.M. to 1:00 A.M. Monday through Sunday, no sales, distribution, or consumption between the hours of 1:00 A.M. Sunday to 8:00 A.M. Monday. (1968 Code, § 2-219)

8-220. Sanitation for premises covered by on-premises permit. Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary condition, the requirements of which shall be the equivalent of that required for a rating of Class "B" or better, as established by the Tennessee State

Department of Conservation, Division of Hotel and Restaurant Inspections. The city health officer or any properly authorized person is hereby authorized to enter the premises of any on-premises permittee, at all reasonable hours, for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the City of Lake City. (1968 Code, § 2-220)

8-221. 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. #349, Feb. 1994)

8-222. Employees liable for violations. Any employee of any permittee, both retailer and wholesaler, who violates the provisions of this chapter or any provision of the state beer act while so employed by such permittee shall be guilty of a misdemeanor which shall be punishable by a fine under the general penalty clause for this code. (1968 Code, § 2-222)

8-223. Transfer, forfeiture, or abandonment of business. Any permit issued by the beer board under the provisions of this chapter shall be surrendered by the permit holder to said board upon any manner of transfer, forfeiture, or abandonment by the permit holder of the business or premises for which the permit was issued.

Any permit holder who in any manner transfers, forfeits, or abandons the business or premises for which the permit was issued and who fails to surrender said permit to the beer board within thirty (30) days thereafter shall be deemed by law to have surrendered said permit in compliance with this section and shall not thereafter be entitled to engage in the business of storing, selling, distributing, or manufacturing any beverage coming within the provisions of this chapter, at the same location, unless and until a new permit is issued in the manner provided herein. (1968 Code, § 2-223)

8-224. Beer establishments selling on election day. The hours during which beer can be sold on an election day are governed by the rules established in § 8-219 and subject to the limitations and restrictions contained in the state law. (1968 Code, § 2-224)